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20.09.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A 17311 of 2023
IA No. CAN 1 of 2023**

**Devendra Kumar Sarawgee & Ors.
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Abhishek Halder,
Mr. Swadesh Misra,
Ms. Madhurima Basu.
...For the Petitioners.**

**Mr. Atis Kumar Biswas,
Ms. Debangana Dey Nayek.
...For KMC.**

**Mr. Suman Kumar Dutta,
Mr. Siddhartha Banerjee,
Mr. Prasanta Naskar.
...For the Respondent No.7.**

The petitioners complain of illegal and unauthorized construction at 3, Alipore Park Place, Kolkata-700029, Ward No. 74, Borough-IX of the Kolkata Municipal Corporation.

Objection filed against such unauthorized construction is pending consideration at the end of the Corporation.

Learned advocate appearing for the respondent no. 7, the person responsible for making construction submits, upon instructions, that the capsule lift was

installed under misconception that sanction was not required for installation of the same.

The petitioners also raise an issue of illegal construction of a swimming pool. Several other illegalities at the time of making construction are also mentioned in the objection pending consideration before the Corporation.

As it appears that the representation of the petitioners objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the Municipal Commissioner or his delegate to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioners immediately thereafter.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

Till a decision is taken by the aforesaid respondent, the Corporation will not take any steps for regularizing the unauthorized construction, if any as alleged.

In the event the Corporation exists the regularized unauthorized construction, then an opportunity of hearing be given to all the necessary parties prior to passing a final order.

The petitioners are directed to forward a copy of the representation dated 8th May, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)