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11.12.2023
Court No. 24
AGM

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

W.P.A 17550 of 2023

**Kalyan Sarbajna
-versus
The State of West Bengal & Ors.**

**Mr. Malay Bhattacharya.
Ms. Sudipa Sen Gupta
...For the Petitioner.**

**Mr. Kajol Roy.
Mr. Suman Nandi.
... For the private respondents.**

**Mr. Siddhartha Banerjee.
... For the Municipality.**

The petitioner complains that the private respondents are raising construction at holding no. 142, Maniktala Makhla under the Uttarpura-Kotrung Municipality without maintaining the statutory side open spaces.

The petitioner and the private respondents are co-owners of the subject property. A partition suit in between the parties is pending consideration before the learned Civil Court. The petitioner restricts the allegation with regard to making construction infringing the statutory side open spaces.

Learned advocate representing the private respondents submits, upon instruction that, the construction is being made strictly in accordance with the plan sanctioned.

Affidavit-of-service filed in Court today be kept with the records.

As it appears that the representation of the petitioner 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 respondent no. 3, Board of Councillors, Uttarpara-Kotrung Municipality to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner 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 petitioner 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 petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representations dated 13th 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.)