

ML 180
25.01.2023
d.p.

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

W.P.A 18952 of 2021

**Md. Saiful Islam
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Srijan Nayek,
Ms. Sabnam De.
...For KMC.**

**Mr. Ziaul Islam,
Mr. Abdus Salam.
...For the State.**

None appears on behalf of the petitioner at the time of call.

The Kolkata Municipal Corporation and the police are represented by their respective learned advocates.

On a perusal of the averments and documents annexed to the writ petition and upon hearing the submission made on behalf of the learned advocates appearing for the respondents, it appears that the petitioner complains of illegal and unauthorized construction at the instance of the private respondents at premises no. 187/8, Banku Behari Chatterjee Road (formerly Kasba Road), P.S.-Kasba under Borough-X, Ward No.-91 of the Kolkata Municipal Corporation.

It appears that an objection was filed before the Commissioner of Police, Lalbazar with a copy forwarded

to the Building Department, Kolkata Municipal Corporation in November 2021. The same is yet to be disposed of.

In view of the order that I propose to pass, none of the parties will be prejudiced if the writ petition is disposed of in the following manner.

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.2 being the Executive Engineer, Building, Borough-X 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.

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 representation received by the Building Department, Kolkata Municipal Corporation on 12th November, 2021 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.)