

08.02.2023
Item No.58(M/L)
Crt. No.24.
KB

W.P.A. 19146 of 2021

**Sri Ganesh Kanthua @ Kathua & Anr.
Vs.
The Howrah Municipal Corporation & Ors.**

Mr. Sukumar Bhattacharya
Ms. Piyali Show
Ms. Oindrila Chatterjee
Ms. Swarallipi Sarkar

... For the petitioners.

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumdar

... For the HMC..

Mr. Dyutiman Banerjee

... For the Respondent
Nos. 9, 14, 15 and 16.

The petitioners complain of illegal and unauthorised construction at the instance of the respondent no.5. Objection filed by the petitioners is pending consideration before the Howrah Municipal Corporation.

None represents the private respondent.

Affidavit of service filed in Court is taken on record.

In view of the order, I propose to pass no prejudice shall be caused to the non-appearing

respondents, 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 or his delegate 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 dated November 18, 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.)