

Item No.13

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

17.11.2023
Ct-24

WPA 18082 of 2023
Kamrunnessa Bibi

v.

The State of West Bengal & Ors.

Mr. Debabrata Roy
Mr. Monojit Pal
Ms. Sahina Parvin
Ms. Papiya Naskar
... for the petitioner.

Ms. Rama Halder
Md. Ashanuzzaman
... for HMC.

The petitioner alleges illegal and unauthorized construction at the behest of the private respondents over a piece and parcel of land situated at Mouza-Makhalhati, J.L. No. 2, comprising of L.R. Dag No. 71, L.R. Khatian Nos. 2176, 2503, 2504, 2347, 2264, 2129, 2436, 1826, 8289, 8293, 8294, 8295, 2315 under Maheshtala Municipality Ward No. 5, Kolkata-700066, District- South 24 Parganas.

Objection against such construction is pending consideration.

None represents either the Maheshtala Municipality or the private respondents.

Affidavit-of-service filed in Court today is taken on record.

In view of the order that I propose to pass, none of the non-appearing respondents would 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 Maheshtala Municipality to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving reasonable 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 learned advocate for the petitioner is directed to forward the copy of the representation dated June 2, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Instruction forwarded by the Inspector-in-Charge, Rabindranagar Police Station dated August 11, 2023 be retained with the records.

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

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(Amrita Sinha, J.)