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25.09.2023
d.p.

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

W.P.A 18427 of 2023

**Sumit Mukherjee
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Sunny Nandy,
Ms. Riya Das,
Mr. Subha Pathak,
Ms. Yamini Tiwari.
...For the Petitioner.**

**Mr. Dwijadas Chakarborty.
...For KMC.**

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

None appears on behalf of the private respondents in spite of service.

The petitioner alleges illegal and unauthorized construction by the adjacent owner of the premises no. 24B, Rani Branch Road. The petitioner is the owner of the premises no. 24C, Rani Branch Road.

Allegation is that the construction is being made without obtaining any sanction or permission from the Corporation. Objection filed against such unauthorized construction is allegedly pending consideration till date.

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

The petitioner complains that the objection raised against such illegal construction has not been considered by the respondent authorities till date.

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.5 being the Executive Engineer (Civil), Building Department 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 representation dated 25th March, 2019 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.)