

34
11.12.2023
d.p.

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

W.P.A. 18654 of 2023

**Dipak Kumar Gupta
-versus
The Bally Municipality & Ors.**

**Mr. Akash Ganguly,
Mr. Aniruddha Ganguly.
.... For the Petitioners.**

**Mr. Ashim Kumar Ganguly,
Ms. Jyotsna Roy Mukherjee.
...For the State.**

**Mr. Sunny Nandy,
Mr. Subhasis Chakraborty,
Ms. Sushmita Kumari Singh.
...For the Respondent No.6.**

**Mr. Ayan Banerjee,
Ms. Debasree Dhamali.
...For the Bally Municipality.**

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

The petitioner complains of illegal and unauthorized construction at the behest of the private respondent at 4/1/B, Ashutosh Mukherjee Road, P.S.-Belur under jurisdiction of Bally Municipality.

Complaint lodged against such unauthorized construction is yet to be disposed of.

Learned advocate appearing for the private respondent denies that any unauthorized construction was made at the subject premises.

Learned advocate appearing for the Bally Municipality submits that action could not be taken in response to the complaint filed by the petitioner as copy of the complaint was not received by the Municipality.

The complaint in question dated 24th July, 2023 is annexed at page 12 of the writ petition. The same is pending consideration.

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 Bally 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.

Learned advocate appearing for the petitioner is directed to forward a copy of the representation dated 24th July, 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.)