

20-11-2023
Item No.21
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.18788 of 2023
Dipak Kumar Gupta
-vs-
The Bally Municipality & Ors.

Mr. Akash Ganguly
Mr. Aniruddha Ganguly ...for the petitioner

Mr. Rajendra Chaturvedi
Ms. Reshma Chatterjee ...for the State

Mr. Ayan Banerjee
Ms. Debasree Dhamali
Ms. Riya Ghosh ...for the municipality

Mr. Subhasish Chakraborty
Mr. Sunny Nandy ...for the private respondent

The petitioner complains of illegal and unauthorised construction at the behest of the private respondent at No. 4/1/B/1, Asutosh Mukherjee Road, Belur police station, Howrah within the jurisdiction of Bally Municipality. The complaint lodged against such construction is yet to be disposed of by the concerned authority.

Learned advocate for the private respondent denies the allegation of the petitioner. It has been submitted that the present writ petition is a counterblast of an earlier writ petition filed by the private respondent. It has also been submitted that the construction in question is in existence from the year 2008.

Learned advocate representing the municipality submits, upon instructions, that a copy of the objection allegedly filed by the petitioner has not been received by

the municipality.

As regard non-receipt of the representation by the municipality, the petitioner has annexed postal receipts showing that the objection was put to post, but there is no track report showing service of the said objection. However, since the said objection has been annexed to the writ petition, the same may be taken up for consideration by the municipality.

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, I am of the view that the writ petition may be disposed of by the following order.

The writ petition is accordingly disposed of by directing the Bally Municipality to consider and dispose of the petitioner's representation dated July 24, 2023 strictly in accordance with law by giving a reasoned decision, 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 reasoned decision once passed shall be communicated to all the necessary parties, including the petitioner forthwith.

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 of the sanctioned plan, then necessary steps shall be taken dealing 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 between 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 petitioner's claim, and that all points are left open to be decided by the aforesaid respondent at the time of consideration of the petitioner's representation.

The petitioner is directed to forward a copy of the representation dated 24th July, 2023 to the aforesaid respondent at the time of communication of the order of the court.

The writ petition stands disposed of. No order as to costs.

Certified of this order, if applied for, be made available to the parties on compliance of usual legal formalities.

[Amrita Sinha, J]

