

Item No. 206(ml)

25.01.2023
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20022 of 2021
Aisha Bibi & Ors.

v.

The State of West Bengal & Ors.

Mr. Manas Kumar Das
... for the petitioners.

Mr. Srijan Nayak
Ms. Rituparna Maitra
... for the State.

Mr. N.C.Bihani
Mr. Abhishek Sikdar
... for KMC.

The petitioners complain of illegal and unauthorized construction at 13B, Paddapukur East Lane, P.S.- Watgunge, Ward No. 76, Borough-IX under the jurisdiction of the Kolkata Municipal Corporation.

The objection filed against such unauthorized construction is yet to be disposed of.

None appears on behalf of the private respondents.

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

In view of the order that 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. 4 or his delegate to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners 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 petitioners 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The petitioners are directed to forward a copy of the representation dated August 6, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

The report filed by the Officer-in-Charge, Watgunge Police Station is taken on record.

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.)