

10-10-2023
Item No.22
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.18902 of 2023
Samir Kumar Das & Anr.
-vs-
The State of West Bengal & Ors.

Mr. Rudranil De
Mr. Subhronil Ghosh
Mr. Anirban Das ...for the petitioners

Ms. Jhuma Chakraborty
Md. Ziaur Rahaman ...for the State

Mr. Gopal Chandra Das ...for the municipality

Mr. Pappu Adhikari ...for respondent no.5

It has been admitted by the learned counsel representing the petitioners as well as the private respondent that the 6 inches gap in between the septic tank and the boundary wall of the private respondent has been made concrete.

It is alleged by the petitioners that, apart from the illegal construction of the septic tank, there are several other illegal constructions. The mandate side open space has been infringed. The objection filed by the petitioners in July 2023 is yet to be disposed of.

As it appears that the representation of the petitioners 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 Tamralipta Municipality to consider and

dispose of the representation made by the petitioners strictly in accordance with law by giving a reasoned decision, 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 reasoned decision once passed shall be communicated to all the necessary parties, including the petitioners 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 disputes 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 petitioners' claim, and that all points are left open to be decided by the aforesaid respondent at the time of consideration of the petitioners' representation.

The petitioners are directed to forward a copy of the representation dated 18th 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]