

Item No.15

In The High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

16.01.2023  
Ct-24

WPA 19459 of 2022  
Sri Dipankar Chakrabarti

v.

Rajpur Sonarpur Municipality & Ors.

Mr. Dibakar Bhattacharjee  
... for the petitioner.

Md. Bani Israil  
Mr. Sahidur Rahaman  
... for the respondent no. 6.

Mr. Mir Anuruzzaman  
... for the Municipality.

The petitioner complains that the private respondent has made unauthorized construction by encroaching upon the open spaces and has also changed the nature of use of the ground floor of the subject premises.

Details of the unauthorized acts of the private respondent are mentioned in the objection filed by the petitioner before the Municipality in August 2021. The petitioner submits that the said representation has not been considered by the Municipality till date.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that the room in the ground floor has been sold to the private respondent as shop room.

The learned advocate representing the Municipality submits that a notice has been issued upon

the private respondent for production of documents in response to the complaint lodged by the petitioner.

As it appears that the Municipality has already acted on the basis of the complaint lodged by the petitioner and issued a show cause notice to the private respondent for production of documents, accordingly, the present writ petition is disposed of by directing the Rajpur Sonarpur Municipality to take prompt necessary steps for consideration of the objection filed by the petitioner on August 3, 2021 in accordance with law, after giving reasonable opportunity of hearing to the petitioner and the private respondent and to pass a reasoned order and communicate the same to the parties.

A decision shall be taken in the matter at the earliest but positively within a period of twelve weeks from the date of communication of a copy of this order.

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 and change in the mode of use of the room in the ground floor 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 August 3, 2021 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.

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**(Amrita Sinha, J.)**