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12.12.2023
Court No. 24
AGM

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

W.P.A 19117 of 2023

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

**Mr. Nilanjan Bhattacharya
Mr. Sounak Sen
...For the Petitioner.**

**Mrs. Munmun Tewary
Mr. Kaustav Chatterjee
... For the State.**

**Mr. Sunny Nandy
Mr. Subhasis Chakraborty
Ms. Sushmita Kumari Siny
... For the respondent. No. 6.**

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

The petitioner complains of illegal construction at the behest of the private respondent at 5/8, Asutosh Mukherjee Road, P.S. Belur under the jurisdiction of Bally Municipality.

Complaint lodged against such unauthorised construction is pending consideration.

Learned advocate representing the private respondent submits, upon instruction that, the construction was made strictly in accordance with the plan sanctioned and the construction was over in the

year 2008. No new construction is being made at present.

Learned advocate representing the Bally Municipality is yet to take instruction in the matter.

Affidavit-of-service filed in Court today be kept with the records.

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. 1, 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.

The petitioner is directed to forward a copy of the representations 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.)