

25
22.11.2023
Court No. 24
A.G.M.

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

WPA 19174 of 2023

**Subhas Banerjee & Ors.
-versus
State of West Bengal & Ors.**

**Mr. Shyamal Chakraborty,
Mrs. Anjana Das
Mr. Sayan Das**

... For the petitioners.

Mr. Satyajit Talukdar

... For the K.M.D.A.

The petitioners allege that Bansberia Municipality is forcefully raising construction over the private property of the petitioners without acquiring the same and without giving any notice to the petitioners.

It is alleged that a water body is being filled up by the Bansberia Municipality without the consent of the petitioners.

Objection filed before the Chairman of the Bansberia Municipality is pending consideration till date.

None represents Bansberia Municipality.

There is no proof of service of the writ petition upon Bansberia Municipality.

In view of the order that I propose to pass, none of the non-appearing respondents shall be prejudiced, if the writ petition is disposed of in the following manner.

As the objection filed by the petitioners is pending consideration before the Chairman of the Municipality, accordingly, Bansberia Municipality is directed to consider the objection filed by the petitioners on 30th June, 2023 followed by remainders dated 26th July, 2023 and 31st July, 2023 after giving reasonable opportunity of hearing to the necessary parties at the earliest but positively within a period of eight weeks from the date of communication of this order.

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.

A reasoned order shall be passed and communicated to the parties immediately thereafter.

Learned advocate for the petitioners is directed to forward the copy of the representations dated 30th June, 2023, 26th July, 2023 and 31st July, 2023 to the aforesaid respondents at the time of communicating the order to 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.)