

Item No.248

In the High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

26.09.2023  
Ct-24

WPA 19460 of 2023  
Sri Rabi Shankar Pandey

v.

The State of West Bengal & Ors.

Mr. Amit Singh  
Mr. Ajay Kumar Shaw  
... for the petitioner.

Ms. Noelle Banerjee  
Mr. Balarko Sen  
... for the State.

The complaint lodged by the petitioner against the illegal act of the private respondent in demolishing the boundary wall and affixing door and window on the said wall to get access to the petitioner's plot in Dag No. 385, Mouza-Kona being holding no. 2/2/2, Ward No. 11 of Halisahar Municipality is pending consideration at the end of the Municipality for a considerable period of time.

The petitioner relies upon the judgment and decree dated November 15, 2019 passed by the Learned Civil Judge (Junior Division), 1<sup>st</sup> Court at Barrackpore in TS No. 176 of 2013, CIS Reg. No. 1643 of 2014 whereby the private respondents herein has been permanently restrained from changing the nature and character of the said property.

None appears either on behalf of the private respondents or the Halisahar Municipality despite service.

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

In view of the order that I propose to pass none of the non-appearing parties would be prejudiced 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 Halisahar 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.

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 learned advocate for the petitioner is directed to forward the copy of the representation dated July 10, 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.

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**(Amrita Sinha, J.)**