

Item No. 216(ml)

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

25.01.2023
Ct-24

WPA 20615 of 2021
Smt. Manjusha Koley

v.

The Howrah Municipal Corporation & Ors.

Ms. Debjani Sengupta
Ms. Kalpita Paul
Ms. Koyel Bag
Mr. Abhijit Chatterjee
... for the petitioner.

Mr. Sandipan Banerjee
Mr. Sobhan Majumdr
... for HMC.

The petitioner complains of illegal and unauthorized construction at the instance of the respondent nos. 5 and 6. An objection filed by the petitioner before the Howrah Municipal Corporation in December 2021 is yet to be disposed of.

There is no proof of service of the writ petition upon the private respondents.

The learned advocate representing the Howrah Municipal Corporation is not ready with proper instruction.

In view of the order that I propose to pass no prejudice shall be caused to the non-appearing respondents, 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 respondent no. 2 or his delegate 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 petitioner is directed to forward a copy of the representation dated December 4, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

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

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.)