

71.
14.03.2023
S.D.

W.P.A. 19888 of 2022

Krishna Gobinda Sarkar

Vs.

**The Principal Secretary, Urban Development
and Municipal Affairs Department, Govt.
of West Bengal & Ors.**

Ms. Disha Shukla

Mr. Partha Chakraborty

... For the Petitioner.

Mr. Gopal Chandra Das

Ms. Era Ghose

...For the KMC

Mr. Naba Kumar Das

Mr. Subhabrata Das

...For the State

The petitioner complains of illegal and unauthorized construction at the instance of the respondent nos. 9 and 10. The objection filed by the petitioner is pending consideration before the municipal authorities.

None appears on behalf of the private respondents despite service.

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

Learned advocate representing the KMC is yet to receive instruction in the matter.

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. 6 being the Executive Engineer, Borough-III, Kolkata Municipal Corporation 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 6th September, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)