

255
26.09.2023
Court No. 24
A.G.M.

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

W.P.A 19919 of 2023

**Smt. Ruma Dutta & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Amit Baran Dash
Ms. Ankana Sarkar
...For the Petitioners.**

**Mr. Manuwar Ali
Mr. Soumyajit Ghosh
... For the State.**

**Mr. Sandeep Prasad Shaw
Mr. Anupam Some
Mr. Raju Barai
... For the private
respondents 7 and 8.**

The petitioners complain that the private respondents are making construction without obtaining any approval from the Municipality.

The petitioners rely upon the report filed by the Sub Assistant Engineer, Maheshtala Municipality dated 24th February, 2023 when a complaint was filed by the said engineer to the Inspector-in-charge mentioning that Gautam Dutta, the private respondent was constructing building at Rabindranagar A-36, Block, PS- Rabindranagar, Ward No. 7 without taking any approval from the Municipality.

The petitioners submit that repeated complaints were lodged before the municipality but no steps have been taken.

Learned advocate representing the private respondents denies the submission of the petitioners.

It has been submitted that construction is going on in accordance with the plan sanctioned by the municipality.

None represents the municipality despite service.

Affidavit-of-service filed today in Court 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 Maheshtala 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 representation dated 27th July, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Instruction filed by the Officer-in-charge, Rabindranagar P.S. be retained with the record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)