

Item No.35

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

13.02.2023
Ct-24

WPA 20341 of 2022
Keshab Chakraborty
v.
The State of West Bengal & Ors.

Mr. Mukteswar Maity
Mr. Pranab Das
Mr. Prabir Rej
... for the petitioner.

Mr. Uttiya Ray
Mr. Arnab Mandal
... for the respondent nos. 6 & 7.

The petitioner complains that the private respondents extended portions of the constructed area without obtaining any sanction from the Bardhaman Municipality. Complaint lodged by the petitioner is pending consideration.

Learned advocate representing the private respondents submits, upon instruction that, the petitioner and the private respondents are co-sharers of the subject property. It is submitted that no construction has been made at the instance of the private respondents. The present writ petition is a counter blast to the complaint lodged by the private respondents against the petitioner alleging illegal and unauthorized construction.

As the Municipality is not represented, the Court is not in a position to decide the issue conclusively.

In view of the above, the present writ petition is disposed of by directing the Bardhaman Municipality to take steps to consider the representation filed on behalf of the petitioner in accordance with law after giving reasonable opportunity of hearing to all the necessary parties and pass a reasoned order and communicate the same to all the parties immediately thereafter.

The Municipality shall decide all the objections filed by the parties simultaneously to avoid conflicting decisions in the matter.

The Municipality shall ensure that the matter is disposed of at the earliest but positively within a period of twelve weeks from the date of communication of a copy of this order.

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 a copy of the representation dated July 19, 2022 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.)