

Item No.3

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

22.11.2023
Ct-24

WPA 20059 of 2023
Nandarani Nandi & Anr.

v.

The State of West Bengal & Ors.

Ms. Malabika Roy Dey
... for the petitioners.

Mr. Moniruzzaman
Mr. Saikat Sen
... for the State.

Mr. Subhasis Bandopadhyay
... for the Municipality.

The petitioners complain of illegal and unauthorized construction at the behest of the respondent no. 4.

In response to the objection lodged by the petitioners, spot inspection was conducted but at the time of spot inspection the private respondent failed to produce any sanctioned plan in support of the construction made.

In reply to the query made by the petitioners under the Right to Information Act, 2005, the Municipality intimated the petitioners that a plan was sanctioned in favour of the private respondent in May 2022.

The petitioners through the learned advocate have filed a representation highlighting the illegalities at the time of raising construction. The said objection is yet to be considered and disposed of.

None represents the private respondent.

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

Learned advocate representing the Burdwan Municipality submits, upon instruction that, a notice to stop construction has been issued and necessary steps shall be taken in accordance with law.

In view of the order that I propose to pass, none of the non-appearing respondents would be prejudiced, if the writ petition is disposed of in the following manner.

As it appears that the representation of the petitioners 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. 3 to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners 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 petitioners 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The learned advocate for the petitioners is directed to forward the copy of the representations dated June 5, 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.)