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20.02.2023
d.p.

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

W.P.A. 20551 of 2022

**Santosh Kumar Ghosh
-versus
The State of West Bengal & Ors.**

**Mr. P. Sinha Roy.
...For the Petitioner.**

**Mr. Rabindranath Mahato,
Mr. Aritra Shankar Ray.
...For the Respondent No.6.**

**Mr. Biswaranjan Bhakat.
...For the Respondent No.3.**

**Ms. Jhuma Chakraborty,
Mr. Aritra Ghosh.
...For the State.**

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

The petitioner complains of illegal and unauthorized construction at the instance of the private respondent.

Learned advocate appearing for the Municipality submits, upon instructions that, a date of hearing was fixed for affording opportunity of hearing to all the parties.

On the scheduled date fixed for hearing, the petitioner was present but the private respondent

remained absent. In view of the absence of the private respondent, the hearing has been adjourned.

Learned advocate appearing for the private respondent submits that he is not aware of any date of hearing fixed by the Municipality.

As it appears that the complaint of the petitioner is yet to be disposed of, accordingly, the Municipality is directed to afford a further opportunity of hearing to both the parties.

If any of the parties remain absent at the time of hearing, the Municipality shall proceed to decide the issue on the basis of the documents available on record.

The hearing shall be conducted and final order passed in the matter 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 Municipality 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 18th June, 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.

(Amrita Sinha, J.)