

Item No.231(ml)

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

01.02.2023
Ct-24

WPA 21280 of 2021
Syed Md Yusuf

v.

The Kolkata Municipal Corporation & Ors.

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
... for KMC.

None appears on behalf of the petitioner at the time of call. None appears on behalf of the private respondents either.

It appears from the averments made in the writ petition and the documents annexed thereto that the petitioner complains of illegal and unauthorized construction at premises no. 9, Rafi Ahmed Kidwai Road.

The objection filed by the petitioner before the respondent authorities is yet to be disposed of.

Learned advocate representing the Kolkata Municipal Corporation produces the report signed by the Sub-Assistant Engineer (C) and Executive Engineer (Building), Borough-VI, Kolkata Municipal Corporation mentioning that departmental inspection revealed existence of a G+4 storied old building at the subject premises. The occupier of the premises failed to produce any sanctioned plan in respect of the construction.

In view of the order that I propose to pass no prejudice shall be caused to the non-appearing respondents, if the writ petition is disposed of in the following manner.

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. 4 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 September 30, 2021 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.)