

Item No.231

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

03.10.2023
Ct-24
BP

WPA 20565 of 2023

Subrata Dey
v.
The State of West Bengal & Ors.

Mr. Kushal Chatterjee
Mr. Shibjit Mitra
Mr. Subhojit Mukherjee
... for the petitioner

Mr. Biswajit Mukherjee
Mr. Debansu Nandi
... for the State

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
Ms. Dipanwita Ganguly
Mr. Kaustav Bhattacharya
Mr. S. Chakraborty
... for the respondent no.6

The petitioner complains of illegal construction at the instance of the private respondent. Complaint against such unauthorized construction is pending consideration before the Uluberia Municipality.

Learned advocate representing the private respondent denies the allegation of the petitioner.

It has been submitted that the instant writ petition is a counter blast to the earlier writ application filed by the private respondent alleging unauthorized construction at the end of the petitioner herein. It has further been submitted that the private respondent

raised construction on the basis of a sanctioned plan in the year 1988-1989.

None represents the Uluberia Municipality. In the absence of the Municipality it is not possible for the Court to decide the issue conclusively.

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 Uluberia Municipality being the respondent no.2 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 8th August, 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.

(Amrita Sinha, J.)