

29
20.11.2023
Court No. 24
AGM

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

W.P.A 21029 of 2023

**Smt. Mira Sahoo
-versus
The State of West Bengal & Ors.**

**Mr. Salil Kumar Maiti
...For the Petitioner.**

**Ms. Nilanjana Abhya
...For the State.**

**Mr. S. M. Hassan
Ms. Anupama Yasmin
... For the Haldia Municipality.**

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

None represents the private respondents.

The objection filed by the petitioner alleging unauthorised construction at the behest of the private respondents is pending consideration at the end of Haldia Municipality.

Learned advocate representing the Municipality submits, upon instruction that, there is a civil dispute between the brother and sister which is pending consideration before the learned Court below.

The Municipality is not the authority to decide any civil dispute in between the parties but the Municipality is under an obligation to consider and dispose of the objection filed against unauthorised construction.

In view of the order that I propose to pass, none of the non appearing respondent will be prejudiced 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 Haldia Municipality 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 3rd July, 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.)