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22.11.2023
Court No. 24
AGM

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

W.P.A 21321 of 2023

**Madhuri Pratihari
-versus
The State of West Bengal & Ors.**

**Mr. Sukanta Das
...For the Petitioner.**

**Mr. Rabindranath Mahata
Mr. Aritra Shankar Roy
...For the Private respondents.**

**Ms. Mitali Mukherjee
Ms. Oindrila Chatterjee
... For the State.**

**Mr. Mrinal Kanti Ghosh
... For the Kharagpur Municipality.**

The petitioner raises allegation of illegal and unauthorised construction at the behest of the private respondents.

Specific allegation is that the balcony and the first floor have been extended by cantilever upto the marginal property line of the petitioner without leaving the mandatory side open spaces.

Objection filed by the petitioner before the Kharagpur Municipality in December 2022 followed by remainder in May 2023 is yet to be disposed of.

Learned advocate representing the private respondents denies the allegation of the petitioner. It has been submitted that the construction has been made in accordance with the plan sanctioned.

Learned advocate representing the Municipality is yet to receive instruction in the matter.

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, the Board of Councilors, Kharagpur 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 representations dated 8th December, 2022 and 16th May, 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.)