

Item No.17&18

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

12.12.2023
Ct-24

WPA 27534 of 2023
Bharatmata Democratic Association
v.
The State of West Bengal & Ors.
with
WPA 21465 of 2023
Sri Sanjay Halder & Anr.
v.
The Kolkata Municipal Corporation & Ors.

Mr. Sarwar Jahan
Mr. Aditya Bikram Mahata
... for the petitioner in WPA 27534 of
2023 & for the private respondentd
in WPA 21465 of 2023.

Ms. Mousumi Choudhury
... for the respondent no. 7
in WPA 27534 of 2023.

Mr. Srijan Nayak
Ms. Rituparna Maitra
... for KMC in WPA 27534 of
2023.

Mr. Srijan Nayak
Mr. Dwijadas Chakraborty
... for KMC in WPA 21465 of 2023.

Mr. Saumyen Datta
Mr. Rajendra Nath Barik
... for the petitioners in WPA 21465
of 2023 & for the respondent nos.
8 & 9 in WPA 27534 of 2023.

Bharatmata Democratic Association, a registered
Society has filed the writ petition alleging construction of
illegal boundary wall at the behest of the private
respondents.

Allegation is that the boundary wall has been raised beyond the permissible limit without obtaining any sanction from the Corporation and the construction has been made in such a manner that the right of free ingress and egress to the property of the petitioners is being infringed.

Sanjay Halder and another filed writ petition against Bharatmata alleging that illegal construction has been made without obtaining any sanction.

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction that, the men and agents of the Corporation visited the locale on repeated occasions but failed to identify the disputed structure and did not find anybody to assist them to identify the said structure.

It further appears from the submission made on behalf of both the parties that each alleges unauthorized construction against the other. Both petitioners have filed representation before the Corporation but none has been disposed of.

As it appears that the representation of the petitioners 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 Executive Engineer (Building), Borough-XI to consider and dispose of the representations made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners 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 petitioners 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The learned advocate for the petitioners is directed to forward a copy of the respective objections filed by the petitioners to the aforesaid respondent at the time of communicating the order of the Court.

Both the writ petitions 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.)