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20.11.2023
d.p.

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

W.P.A 21470 of 2023

**Trinath Singh
-versus
The State of West Bengal & Ors.**

**Mr. Sounak Bhattacharyya,
Mr. Abhirup Halder,
Mr. Anirban Saha Roy.
...For the Petitioner.**

**Mr. Chandra Nath Sarkar,
Mr. Sounak Mandal.
...For the Respondent No. 7.**

**Mr. N.C. Bihani,
Ms. P.B. Bihani,
Mr. Soumyajit Ghosh.
...For the South
Dum Dum Municipality.**

**Mr. Anand Farmania,
Mr. Arijit Mukherjee.
...For the State.**

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

The petitioner complains of illegal and unauthorized construction at the behest of the respondent nos. 6 and 7.

The respondent nos. 6 has been alleged to be the owner of the subject property and the respondent no. 7 was engaged to develop the property in question.

Allegation is that additional floors have been constructed without any sanction and there are massive deviations in the construction that has been made.

It has been submitted that at the time of filing the writ petition, the allegation of deviation in making construction from the sanctioned plan was made, but by the time the writ petition is taken up for consideration and especially during the Puja vacation, additional floors have been raised at a very fast pace without obtaining any sanction.

Learned advocate appearing for the respondent no. 7, being the erstwhile developer of the subject property, submits that due to some disagreement in between the owner and the developer, the agreement for development has been cancelled. The respondent no. 7 right now is no way connected with the construction in question.

Learned advocate appearing for the South Dum Dum Municipality is yet to receive instruction in the matter.

In view of the order that I propose to pass, none of the non appearing parties will be prejudiced if the writ petition is disposed of in the following manner.

The petitioner complains that the objection raised against such illegal construction has not been considered by the respondent authorities till date.

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 being the Board of Councillors 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 10th August, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

Leave is granted to the petitioner to raise objection highlighting construction of additional floors without any sanction.

The Municipality shall take into consideration the allegation of deviation as well as raising additional floors without sanction.

The Municipality shall ensure that unauthorized construction in any manner whatsoever, in deviation or without a sanctioned plan, is not carried out at the subject premises.

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.)