

Item No.17

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

16.01.2023
Ct-24

WPA 21991 of 2022
Smt. Smriti Das & Anr.

v.
The State of West Bengal & Ors.

Mr. Prasenjit Debnath
... for the petitioners.

Mr. D. Mukherjee
Ms. S. Chatterjee
... for the State.

Mr. Soumyajit Bhatta
... for the respondent nos. 2 to 5.

None appears on behalf of the private respondent despite service.

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

The petitioners complain that the objection filed before the Municipality in July 2022 alleging unauthorized construction of septic tank at the instance of the private respondent has not been taken up for consideration till date.

Learned advocate representing the Municipality submits, upon instruction that, the present writ petition is a counter-blast of the action taken by the Municipality.

It has been submitted that an order of demolition had been passed by the Municipality against the petitioner challenging which a miscellaneous appeal has

been preferred before the competent forum. To counter the said action of the Municipality, the petitioner filed the present objection.

The parties rely upon several provisions of the West Bengal Municipal (Building) Rules, 2007.

The specific grievance of the petitioners is that the private respondent constructed the septic tank not at the designated place but at a different place without maintaining the proper height.

In view of the order that I propose to pass no prejudice shall be caused to the non-appearing respondents, if the writ petition is disposed of in the following manner.

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 respondent no. 2, Panihati Municipality to consider and dispose of the representation 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 petitioner 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 petitioners are directed to forward a copy of the representation dated July 7, 2022 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.

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(Amrita Sinha, J.)