

Item No.28

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

2.01.2023
Ct-24

WPA 22487 of 2022
Mrs. Mahar Afroz

v.

The Asansol Municipal Corporation & Ors.

Mr. Gopal Chandra Das
... for the petitioner.

Mr. Saunak Bhattacharya
Mr.Sounak Mondal
... for the Asansol Municipal Corporation.

Mr. Tarun Kumar Ghosh
Mr. Abdus Salam
... for the State.

The petitioner alleges illegal and unauthorized construction at the instance of the private respondents. The petitioner complains that the objection filed against such unauthorized construction in October 2020 has not been taken up for consideration till date.

None appears on behalf of the private respondents.

Learned advocate representing the Asansol Municipal Corporation is not ready with proper instruction in the matter.

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

In view of the order that I propose to pass none of the non-appearing respondents 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 the respondent no. 3, the Municipal Commissioner, Asansol Municipal Corporation 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.

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 October 31, 2020 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.)