

18
18.12.2023
Court No. 24
AGM

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

W.P.A 22160 of 2023

**Smt. Pinki Mallick
-versus
The State of West Bengal & Ors.**

**Mr. Nitai Chandra Saha
...For the Petitioners.**

**Mir Anuruzzaman
... For the Municipality.**

**Mr. Jyoti Prakash Chatterjee
Mr. Rajsekhar Basu
... for the state.**

**Mr. Debasis Banerjee
Mr. Nazir Ahamed
Mr. Sandipan Mondal
Mr. Rakesh Jana
... for the respondents no. 1 to 3.**

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

Allegation is that the complaint lodged before the Rajpur-Sonarpur Municipality has not been considered.

Learned advocate representing the private respondents submit, upon instruction that, no unauthorised construction has been made. The thatched house of the private respondents was washed

away because of the rains and, accordingly, the private respondents made brick walls.

It has been submitted by the learned advocate representing the Municipality that the representation of the petitioner does not mention the holding number over which the alleged construction has been made. Without the holding number, it will not be possible for the municipality to identify the land over which allegation of unauthorised construction is made.

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, Rajpur-Sonarpur 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 17th June, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

Learned advocate for the private respondents submits that leave may be granted for filing the vakalatnama in the department in the course of the day. Leave sought for is allowed.

Report filed by the O.C. Narendrapur PS be retained with the records.

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.)