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20.11.2023
d.p.

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

W.P.A 22407 of 2023

**Abdur Rahman
-versus
The State of West Bengal & Ors.**

**Mr. Rachit Lakhmoni,
Mr. Swapan Nath,
Mr. Deokant Sharma.
...For the Petitioner.**

**Mr. Sandipan Banerjee,
Mr. Ankit Sureka,
Mr. Sobhan Majumder.
...For HMC.**

**Md. Salauddin,
Md. Shahjahan Hussain.
...For the Private Respondents.**

**Mr. Pradip Kumar Mondal,
Mr. Somraj Dhar.
...For the State.**

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

The petitioner alleges illegal and unauthorized construction at the behest of the private respondents.

Allegation is that construction is being made without any sanctioned plan and without maintaining the mandatory side open spaces.

Objection filed against such unauthorized construction is pending consideration at the end of the Howrah Municipal Corporation.

Learned advocate appearing for the private respondents denies the allegation of the petitioner. It has been submitted that construction is being made in accordance with the plan sanctioned.

Learned advocate appearing for the Howrah Municipal Corporation is yet to receive instruction in the matter.

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 Commissioner of Howrah Municipal Corporation or his delegate 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 15th July, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

Leave is granted to the learned advocate appearing for the private respondents to file vakalatnama in the department by 22nd November, 2023.

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.)