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11.10.2023
A.G.M.

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

W.P.A 24287 of 2023

**Rabin Mitra
-versus
The State of West Bengal & Ors.**

**Mr. Syamal Kumar Das.
Ms. Smita Pal
...For the Petitioner.**

**Mr. Prasenjit Debnath.
...For the respondent no. 8.**

**Mr. Ritwik Pattanayak
...For the Respondent Nos. 6 and 7.**

**Mr. Tiptimoy Talukdar
... For the Konnogore Municipality.**

**Mr. Syed Nazmul Hossain
Mr. Prashant Kumar Tripathi
... For the State.**

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

The petitioner alleges illegal and unauthorised construction at the behest of the respondent no. 8 at N-36/3, Indira Gandhi Road, Ward No. 13 under Konnagar Municipality.

On receipt of a complaint from the petitioner, Konnagar Municipality issued a stop work notice on 18th April, 2023 directing the persons responsible to stop all illegal construction and to meet the Chairman

along with all documents in support of the construction made.

It appears that despite such stop work notice, the construction continued prompting the Municipality to serve further stop work notice in July 2023.

The petitioner alleges that the construction is going on till date.

Learned advocate representing the private respondents being the owners as well as the developers of the property submits that construction is being made in accordance with the plan sanctioned.

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 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 April, 2023 and 25th September, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

As unauthorised construction has been detected by the Municipality, accordingly, the Inspector-in-Charge, Uttarpura Police Station is directed to ensure that construction in any manner whatsoever is not carried out at the subject premises until further orders.

The private respondents are restrained from transferring/alienating/creating any third party right in the subject premises till the issue is finally decided by the Konnagar Municipality.

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.)