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01.05.2023
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A 23077 of 2019
IA No. CAN 1 of 2021
CAN 2 of 2021
CAN 3 of 2023**

**Anil Kumar Halder
-versus
The Kolkata Municipal Corporation & Ors.**

**Ms. Sumitra Das.
...For the Petitioner.**

**Mr. Bipin Ghosh.
...For the State.**

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

The petitioner complains of illegal and unauthorized construction at premises no. 140C, Dr. N.G. Saha Road, Roydighi, P.O.-Sarsuna, P.S.-Parnasree, Kolkata-700061 under Borough-XIV, Ward No. 128 of the Kolkata Municipal Corporation.

Objection filed against such unauthorized construction is pending consideration.

The petitioner submits that the person responsible for making construction i.e. the respondent no.9 has expired.

Application for substitution has been filed for impleading the names of the heirs of the deceased respondent.

As it appears that the objection is pending consideration before the respondent authority alleging unauthorized construction, accordingly, it is for the concerned officer of the Kolkata Municipal Corporation to ascertain the whereabouts of the person responsible for making construction.

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.6 being the Executive Engineer, Building Department 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 legal representation dated 9th September, 2019 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition and the connected applications are 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.)