

Item No.47

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

12.06.2023
Ct-24

WPA 26988 of 2022
Rina Pan & Ors.

v.

The State of West Bengal & Ors.

Mr. Sandipto Bose
Ms. Tina Biswas
... for the petitioners.

Mr. Lalit Mohan Mahata
Mr. Prasanta Behari Mahata
... for the State.

Mr. Dipak Kumar Mukherjee
Mr. Rajib Mukherjee
Ms. Shreyasi Bhaduri
... for the Municipality.

Mr. Amitabha Ghosh
Ms. Nabanita Chatterjee
... for the respondent no. 6.

The petitioners complain of illegal and unauthorized construction at the instance of the private respondent at 45, Sandilyapara, P.O.-Makhla, P.S.-Uttarpara under jurisdiction of the Uttarpara-Kotrung Municipality.

According to the petitioners the construction has been made contrary to the municipal laws.

Objection filed by the petitioners before the Municipality is pending consideration.

Learned advocate representing the private respondent denies the allegation of unauthorized construction made by the petitioners. It has been submitted that the construction has been made strictly in accordance with the plan sanctioned by the Municipality.

Learned advocate representing the Municipality has produced a written instruction allegedly signed by the Assistant Sub-Engineer approved by the Chairman of the Municipality.

On a perusal of the said instruction it appears that there is no mention with regard to the unauthorized construction alleged by the petitioners.

As it appears that the representation of the petitioners 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.4 to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners 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 petitioners 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.

To ascertain the allegation of unauthorized construction a spot inspection upon prior notice shall be conducted by the Municipality in presence of all the parties.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The petitioners are directed to forward a copy of the representation dated December 1, 2022 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.)