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22.02.2023
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 27120 of 2022

**Sibnath Chattopadhyay
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. P.B. Mallick.
Mr. S. Bose.
...For the Petitioner.**

**Mr. J. Datta.
Mr. B. Ghosh.
...For State.**

**Mr. Alak Kumar Ghosh.
Mr. Gopal Chandra Das.
...For the KMC.**

**Mr. Raghunath Chakraborty.
...For the respondent no. 6.**

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

The petitioner alleges illegal and unauthorized construction by the private respondent no. 6 at the ground floor of premises no. 59/A, Kalikumar Majumder Road (Postal address 45, K.K. Majumder Road), Santoshpur, Kolkata 700075, Ward No. 10, Borough XI under the jurisdiction of Kolkata Municipal Corporation.

The petitioner complains that the objection raised against such illegal construction has not been considered by the respondent authorities till date.

Learned advocate representing the private respondent submits, upon instruction that, the construction is being made in accordance with the direction passed by the Corporation.

Without going into the allegation and counter allegation of the parties, 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.4 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 representation dated 28th November, 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.

(Amrita Sinha, J.)