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24.01.2023
d.p.

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

W.P.A 27383 of 2022

**Smt. Priyanka Roy Purkait
-versus
The State of West Bengal & Ors.**

**Mr. Sandip Das.
...For the Petitioner.**

**Mr. Shyama Prasad Purkait,
Ms. Moumita Mondal.
...For the Municipality.**

**Mr. Ansar Mandal,
Mr. Hasibul Islam.
...For the State.**

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

The petitioner complains that a G+8 storied structure has been constructed without leaving the mandatory side open spaces and without obtaining sanction from the Diamond Harbour Municipality.

Objection filed before the Municipality is yet to be considered.

None appears on behalf of the person responsible for making construction.

Learned advocate appearing for the Diamond Harbour Municipality submits, upon instructions, that

initially permission was given for construction of G+4 storied building. Thereafter, permission was given for construction of one additional floor, that is G+5.

Learned advocate is not aware as to whether the G+8 storied structure has been constructed or not.

In view of the order that I propose to pass, none of the parties will be prejudiced if the writ petition is disposed of in the following manner.

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.2 being the Diamond Harbour Municipality 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 4th November, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Report filed by the Inspector-in-Charge, Diamond Harbour Police Station dated 21st December, 2022 is taken on record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)