

73.
14.03.2023
S.D.

W.P.A. 27602 of 2022

Sri Biswajit Bhattacharjee
Vs.
The State of West Bengal & Ors.

Mr. Arkaday Mukherjee
Mr. Ankit Dhara

... For the Petitioner.

Mr. Usaf Ali Dewan
Mr. Asif Dewan

..For the Respondent Nos. 4 & 5

Mr. Naba Kumar Das
Mr. Subhabrata Das

...For the State

The petitioner complains of illegal and unauthorized construction at the instance of the respondent no. 7 on Plot No. 841 (LR), Mouza – Raghunathgunj, J.L. No. 06, Ward No. 70 (J.M.), P.S. Raghunathgunj, District – Murshidabad.

The petitioner submits that the private respondents constructed additional floor without obtaining any sanction from the municipality. Objection filed against the unauthorized construction is yet to be disposed of.

It has been submitted that a Stop Work notice has been issued by the municipality on 3rd February, 2023.

Learned advocate representing the municipality submits that Stop Work notice has been issued to the persons responsible,

but the municipality is yet to ascertain as to whether the construction alleged of is unauthorized or not.

None represents the private respondent. Affidavit of service filed in Court today is taken on record.

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 being the Jangipur Municipality represented by the Board of Councilors, Jangipur 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 16th November, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

A copy of the Stop Work notice dated 3rd February 2023 is retained with the records.

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

(Amrita Sinha, J.)

