

Item No.17

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

04.04.2023
Ct-24

WPA 29167 of 2022
Smt. Shakuntala Halder & Ors.
v.
The State of West Bengal & Ors.

Mr. Nirmalya Kumar Das
... for the petitioners.

Mr. Somnath Bose
... for the respondent no. 7.

Mr. Amal Kumar Sen
Mr. Swapan Paul
... for the State.

The petitioners complain of illegal and unauthorized construction in plot no. 949 of Nijagarh Mouza, J.L. No. 9, Block-Budge Budge, South 24 Parganas.

The petitioners complain that the representation filed on their behalf through the learned advocate in December 2022 has not been taken up for consideration till date.

The respondent no. 7 against whom the allegation has been made denies the same. It has been submitted that the respondent no. 7 is not responsible for any construction. The members of the locality constructed the temple in question and the same is in existence for a long period of time.

None represents the Budge Budge Municipality despite service.

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

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 Budge Budge Municipality 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.

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 27, 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.)