

Item No.221

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

19.01.2023
Ct-24

WPA 7691 of 2020
Aniruddha Das

v.

The State of West Bengal & Ors.
with
CAN 1 of 2020

Mr. Salil Kumar Maiti
Mr. Pinki Saha
Ms. Jayatri Basu Roy
... for the petitioner.

Mr. Bibek Jyoti Basu
Mr. Uttam Kumar Dey
... for the State.

Mr. Gouranga Das
Mr. Kapin Ch. Sahoo
... for the respondent no. 8.

Mr. S.M. Hassan
Ms. Anupama Yasmin
... for the Municipality.

CAN 1 of 2020

The application has been filed for recalling the order dated August 23, 2022 dismissing the writ petition for default.

I have perused the said application and being satisfied with the ground mentioned therein, recall the order dated August 23, 2022.

The writ petition is restored to its original file and number.

CAN 1 of 2020 stands disposed.

WPA 7691 of 2020

The petitioner complains of illegal and unauthorized construction at the instance of the respondent nos. 8, 9 and 10 on the joint property.

The petitioner submits that the petitioner and the private respondents are co-owners of the subject property. Without any partition, and without taking any consent of the petitioner, the private respondents raised construction without obtaining any sanction from the Haldia Municipality. Objection filed by the petitioner before the Municipality is pending consideration.

Learned advocate representing the respondent no. 8 submits that there has been amicable partition of the property. A partition suit is also pending consideration before the learned Civil Judge. The construction was made under the Pradhan Mantri Awas Yojana Scheme and no permission or sanction is required for making construction under the said scheme.

Learned advocate representing the Municipality submits that steps will be taken for consideration of the objection filed by the petitioner.

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. 5, the Executive Officer,

Haldia 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 February 3, 2020 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.

Sh

(Amrita Sinha, J.)