

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

15 13.09.2023
spal Ct. no. 2

**WPA/2067/2023
KALIMPONG GADEN THARPA
CHOLING MONASTERY NONPROFITABLE
DEVELOPMENT
ASSOCIATION AND ANR.
VS
STATE OF WEST BENGAL AND
ORS**

Mr. Urgen Lama
...For the petitioner

Mr. Subir Kumar Saha
Mr. M. Rahman
...For the State

Mr. Bikramaditya Ghosh
...For the respondent

The grievance of the petitioner is directed against the inaction of the Municipal authorities in considering the representations dated 22 April, 2021 and 23 June, 2023.

It is submitted on behalf of the petitioner that there has been illegal construction by the private respondent no.5 in the premises belonging to the petitioner.

It is submitted on behalf of the respondent no.5 that there is a civil suit pending between the parties which was filed as far back as in 2009 and is still pending before the Learned Civil Judge (Junior Division), Kalimpong and as such the

instant writ petition is not maintainable and has been filed with a view to circumvent the proceeding pending before the Competent Court and for oblique reasons.

Since no Affidavit in Opposition has been filed in this proceeding, the allegations contained in the writ petition are deemed to have been denied. In particular, the respondent no.5 submits that the allegations in paragraph 5 of the writ petition are false and incorrect.

Be that as it may, the scope of the present writ petition is limited to the extent that the petitioner seeks a direction on the respondent no.2 to consider the aforesaid representation complaining of illegal construction.

In such circumstances, WPA/2067/2023 stands disposed of by directing the respondent no.2 or any designated officer to consider and dispose of the representations dated 22 April, 2021 and 23 June, 2023 in accordance with law and after giving a right of hearing to all the parties including the private respondent no.5.

It is made clear that the respondent no.2 shall dispose of the aforesaid representations dated 22 April, 2021 and 23 June, 2023 respectively without being influenced by any observation on the

merits of the case within a period of eight weeks from the date of communication of this order.

(Ravi Krishan Kapur, J.)