

OD-7

ORDER SHEET
WPO No.1835 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

YASMIN BEGUM
VS.
THE STATE OF WEST BENGAL & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:12th December, 2023.

Appearance:
Mr. Biswajib Ghosh, Adv.
Mr. Sumitava Chakraborty, Adv.
... for the Petitioner.

Mr. N.C. Bihani, Adv.
Mr. Sourav Chowdhury, Adv.
... for KMC.

Mr. Anand Farmania, Adv.
Mr. Manoj Kr. Mondal, Adv.
..for State.

The Court:- Petitioner complains of illegal and unauthorized construction at the behest of the private respondent at 16C, Bindu Basini Street, Ward No.78, Borough-IX of the Kolkata Municipal Corporation.

Objection lodged against such unauthorized construction is pending consideration.

None represents the private respondents.

Affidavit of service does not show service upon respondent no.13 as the postal envelop addressed to the respondent no.13 has returned unserved with the postal endorsement 'Insufficient address'. Affidavit of service along with the postal envelop is taken on record. Copy of the writ petition sought to be served upon the respondent no.13 has been returned back to the learned advocate representing the petitioner.

In view of the order that I propose to pass, none of the non appearing respondents would be prejudiced if the writ petition is disposed of in the following manner.

The instant writ petition is disposed of by directing the Executive Engineer (Building), Building Department, Borough-IX, Kolkata Municipal Corporation, the respondent no.7 herein, to consider and dispose of the representation filed by the petitioner on 20.11.2023 strictly in accordance with law, after giving reasonable opportunity of hearing to the petitioner and all other necessary parties and pass a reasoned order within a period of twelve weeks from the date of communication of this order and communicate the reasoned order to the petitioner immediately thereafter.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

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 objection 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 objection of the petitioner.

The petitioner is directed to forward a copy of the objection to the aforesaid respondent at the time of communicating the order of the Court.

Writ petition stands disposed of.

Instruction forwarded by the Officer-in-Charge of the Ekbalpore Police Station and the engineers of the Kolkata Municipal Corporation be retained with the record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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