

Item No. ML. 121
29.04.2024
AGM

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 509 of 2024

**Dibyendu Kundu
-versus
The State of West Bengal & Ors.**

**Mr. Prasayan Mukherjee.
...For the Petitioner.**

**Mr. Sandipan Banerjee.
Mr. Ankit Sureka.
Mr. Sobhan Majumdar.
... for the HMC.**

**Mr. Keshab Chandra Das.
... For the State.**

**Mr. Amitabha Ghosh.
Mr. Sreekumar Chakraborty.
... for the private respondent.**

Report filed by the Officer-in-Charge, Shibpur
Police Station is retained with the records.

The petitioner's complaint against unauthorised
construction is alleged to be kept pending before the
Howrah Municipal Corporation.

Learned advocate representing the private
respondent denies the allegation of unauthorised
construction.

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 Municipal Commissioner of Howrah Municipal Corporation or his delegate 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, at the earliest, but positively within a period of three months from the date 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.

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.

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 aforesaid respondent will not decide the right, title and interest of the parties and will restrict

the decision only with regard to unauthorized construction being made without a sanctioned plan.

Learned advocate appearing for the petitioner is directed to forward a copy of the representation dated 8th December, 2023 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.

(Amrita Sinha, J.)