

Item No.16

19.03.2024
Ct-24

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 1859 of 2024
Nirmal Banik

v.

Dum Dum Municipality & Ors.

Mr. Sabyasachi Mukherjee
Mr. Debarati Choudhury
Mr. Bibek Dey
Mr. P. Dey
Mr. Mrinmay Nandy
... for the petitioner.

Ms. Mousumi Bhowal
Mr. Ishan Bhattacharya
... for the Dum Dum Municipality.

Mr. Amal Kumar Sen
Ms. Sahina Sumi
... for the respondent nos. 11 & 12.

The petitioner alleges illegal and unauthorized construction at 65/1, Manojendra Dutta Road, Ward No. 19 under Dum Dum Municipality. Objection filed against such unauthorized construction is pending consideration.

Learned advocate representing the private respondents denies the allegation of the petitioner. It has been submitted that the private respondents are the agents of the petitioner and all works performed by the private respondents have been ratified by the petitioner.

The petitioner complains that the objection raised against such illegal construction has not been considered by the respondent authorities till date.

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.4 being the Board of Councillors, Dum Dum 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.

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 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.

Learned advocate appearing for the petitioner is directed to forward a copy of the representation dated 3rd January 2024 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

The notice of hearing served by the Dum Dum Municipality on January 10, 2024 be retained with the records.

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.)