

01-05-2024
Item No.196 ML
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.5040 of 2024
Rash Behari Das
-vs-
The State of West Bengal & Ors.

Mr. Saibal Acharya ...for the petitioner

Mr. Lalit Mohan Mahato, AGP
Mr. Prasan Behari Mahata ...for the State

Mr. Sauradeep Dutta ...for private respondent

Supplementary affidavit filed in court be taken on record.

The petitioner prays for consideration of his representation dated January 30, 2024 alleging illegal and unauthorized construction at the behest of the private respondent.

Learned advocate for the private respondent denies the allegations of the petitioner. According to the private respondent, the municipality granted the approval to the construction that has been made by him.

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.2 being the Arambagh

Municipality to consider and dispose of the petitioner's representation dated January 30, 2024 (p.25) strictly in accordance with law by giving a reasoned decision, 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 reasoned decision once passed shall be communicated to all the necessary parties, including the petitioner forthwith.

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

In the event the said respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid of the sanctioned plan, then necessary steps shall be taken dealing with such unauthorized construction, in accordance with law.

The said respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute between the parties regarding right, title and interest in respect of the concerned land.

It is made clear that this court has not entered into the merits of the petitioner's claim, and that all points are left open to be decided by the said respondent at the time of consideration of the petitioner's representation.

The petitioner is directed to forward a copy of the representation dated January 30, 2024 to the said respondent at the time of communication of the order of the court.

The writ petition stands disposed of. No order as to costs.

Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]