

26-02-2024
Item No.58
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.5698 of 2023
Md. Kalam
-vs-
The State of West Bengal & Ors.

Md. Sarwar Jahan
Mr. Binay Shaw
Mr. Kaustav Roy ...for the petitioner

Mr. Srijan Nayek
Ms. Rituparna Maitra ...for the Corporation

Supplementary affidavit filed in court be taken on record.

The petitioner submits that the private respondents have constructed a five-storied building at premises no.B/1/H/4, Rameshwar Shaw Road, P.O. Linton Street, Kolkata – 700 006 under Ward 58, Borough-VII under the Kolkata Municipal Corporation without any sanctioned plan. Objection lodged against such unauthorised construction is yet to be disposed of.

Learned advocate representing the Corporation admits that, prima facie, unauthorised construction has been detected.

None represents the private respondents. Affidavit of service is taken on record.

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.

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.6 being the Executive Engineer (Civil), Building, Kolkata Municipal Corporation to consider and dispose of the petitioner's representation dated March 28, 2023 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 unauthorised 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 of the sanctioned plan, then necessary steps shall be taken dealing 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 between 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 petitioner's claim, and that all

points are left open to be decided by the aforesaid respondent at the time of consideration of the petitioner's representation.

The petitioner is directed to forward a copy of the representation dated March 28, 2023 to the aforesaid 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]

