

26-02-2024
Item No.60
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.7863 of 2023
Jaba Banerjee
-vs-
The State of West Bengal & Ors.

Mr. Saikat Thakurata ...for the petitioner

Mr. Sanjit Kumar Das ...for respondents no.5-6

The petitioner complains of illegal and unauthorised construction at the instance of the private respondents.

Learned advocate representing the private respondents denies the allegation of the petitioner. It is submitted that the construction in question has been made in accordance with the plan sanctioned over there own plot of land. A civil suit in between the parties declaring their rights is pending consideration before the learned civil court.

None represents the Basirhat Municipality. Affidavit of service is taken on record.

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, Basirhat Municipality to consider and dispose of the petitioner's representation received at the

office of the Board of Councillors of the Basirhat Municipality dated March 2, 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 received in the office of the municipality on March 2, 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]