

ML 61
10.05.2024
AGM

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

W.P.A 9410 of 2022

**Sri Debasish Srimany
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Tapas Kumar Bhattacharya,
Mr. Aviroop Bhattacharya.
...For the Petitioner.**

**Mr. Ayan Mitra.
Mr. Mrityunjoy Saha.
... For the respondent no. 7.**

The petitioner complains of illegal and unauthorised construction at the behest of the private respondents. Objection filed against such unauthorised construction is pending consideration.

Learned advocate representing the private respondent denies the allegation of the petitioner.

The private respondent also filed a writ petition against the petitioner and order has been passed in the said writ petition on 15th April, 2024.

It has been submitted that a kuccha room existed at premises no. B/37/1/H/2/1, Cossipore Road. The property is a thika property. The private respondent has merely repaired the existing kuccha room upon intimation to the ward co-ordinator, Ward No.1, KMC. The allegation of making pucca construction is denied by the private respondent.

The petitioner relies upon the photographs to show that pucca construction has been raised.

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. 5, the Executive Engineer (building), Borough I 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 16th January, 2022 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.)