

08
22.05.2024
d.p.

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

W.P.A. 10720 of 2024

**Phani Bhusan Naskar & Anr.
-versus
The State of West Bengal & Ors.**

**Ms. Pampa Dey Dhabal,
Ms. Sangita Banerjee.
...For the Petitioners.**

**Mr. R. N. Chakraborty.
...For the Municipality.**

**Mr. Ritoban Sarkar,
Mr. Ashwin Sharma.
...For the Respondent No.6.**

**Ms. Aratika Roy.
...For the Respondent
Nos.7 & 8.**

Affidavit-of-service filed in Court today is taken on record.

The petitioners allege that the private respondent nos. 7 and 8 has made unauthorized construction over Dag No. 290, Khatian Nos. 5361 and 5362, J.L. No. 15 of Mouza-Raipur, P.S.-Mahestala, District- South 24-Parganas under the jurisdiction of Mahestala Municipality.

From the said structure the private respondents are running a marriage hall under the name and style of Lord Bishnu Palace without obtaining any permission from the Municipality.

Further allegation of the petitioners is that the land of the PWD, just in front of the subject premises, is being used as parking place for the vehicles of the guests who attend the marriage ceremony.

The petitioners lodged complaint before the Mahestala Municipality but the same is alleged to be kept pending.

Learned advocate representing the private respondents denies the allegation of the petitioners. It has been submitted that the construction has been made in accordance with the plan sanctioned by the Municipality. It has also been submitted that the business is being run after obtaining necessary permission from the Municipality upon payment of the requisite charges.

Learned advocate for the Municipality is yet to receive instruction in the matter.

As it appears that the representation of the petitioners 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 Mahestala Municipality to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners 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 petitioners 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

Learned advocate appearing for the petitioners is directed to forward a copy of the representation dated 7th March, 2024 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Report filed by the Inspector-in-Charge, Mahestala Police Station dated 22nd May, 2024 is taken on record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)