

66
26.02.2024
d.p.

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

W.P.A 12265 of 2023

**Arun Kumar Datta & Ors.
-versus
Panihati Municipality & Ors.**

**Mr. Tulshi Das Ray,
Mr. Tirthankar Roy.
...For the Petitioners.**

**Mr. Soumyajit Bhatta.
...For the Respondent No.2.**

**Mr. Prantick Ghosh,
Mr. Prasad Bhattacharyya,
Mr. Sandip Datta.
...For the Respondent Nos. 5 & 7.**

**Mr. Arnab Ray.
...For the Respondent Nos. 8 to 13.**

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

Leave is granted to the learned advocate appearing for the respondent nos. 5 and 7 to file vakalatnama in the department in course of the day.

The petitioners complain that construction is being raised by filling up a water body known as 'Asharam Jheel' under jurisdiction of the Panihati Municipality.

Complaint was lodged before the Panihati Municipality and the same is alleged to be kept pending.

Learned advocate appearing for the respondent nos. 8 to 13 submits that the said respondents are residing at the subject premises by raising construction prior to 1970.

Learned advocate appearing for the respondent nos. 5 and 7 submits, upon instructions, that the constituted attorney of the petitioners is creating disturbance in the rearing of fish in the water body. The allegation of unauthorized construction has been denied.

Without going into the merits of the allegation and the counter allegation of the parties as it appears that the complaint filed before the Municipality is pending consideration for a considerable period of time, accordingly, the instant writ petition is disposed of by directing the Panihati Municipality to consider the representation dated 3rd March, 2022 filed by one of the co-owners of the subject property in accordance with law after giving a reasonable opportunity of hearing to all the necessary parties.

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 are directed to forward a copy of the representation dated 3rd March, 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.)