

22  
25.04.2024  
d.p.

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

**W.P.A 12044 of 2022  
IA No. CAN 1 of 2023**

**Anand Kumar Mahato  
-versus  
The State of West Bengal & Ors.**

**Mr. Soumitra Deb.  
...For the Petitioner.**

**Mr. Srijan Nayak,  
Ms. Rituparna Maitra.  
...For KMC.**

The petitioner prays for recalling the order dated 6<sup>th</sup> December, 2023 dismissing the writ petition for default.

I have perused the reasons put forth in the application for non-appearance of the learned advocate on the day when the matter was taken up for consideration by the Court.

Being satisfied therewith, I recall the order dated 6<sup>th</sup> December, 2023.

WPA 12044 of 2022 is restored to its original file and number.

The application being IA No. CAN 1 of 2023 is disposed of.

**Re: WPA 12044 of 2022**

The petitioner prays for consideration of the representation dated 7<sup>th</sup> March, 2022 alleging illegal and unauthorized construction at the behest of the private respondent.

In view of the order that I propose to pass, none of the non-appearing respondents will be prejudiced if the writ petition is disposed of in the following manner.

The petitioner complains that the objection raised against such illegal construction has not been considered by the respondent authorities till date.

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 being the Executive Engineer, Building Department, Borough - IX 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 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 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.

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 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.

Learned advocate appearing for the petitioner is directed to forward a copy of the representation dated 7<sup>th</sup> 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.)**