

ML 66
10.05.2024
AGM

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

W.P.A 12451 of 2022

**Shama Khurshid
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Tarun Kumar Das.
Mr. Sourav Pal.
...For the Petitioner.**

Leave is granted to the learned advocate of the petitioner to implead the Executive Engineer/ (Civil)/Building Department, Borough-III of the KMC as party respondent in the instant writ petition.

The petitioner complains of illegal and unauthorised construction at the behest of the private respondents at B/87/H/2, Narkeldanga North Road, Ward No. 29, under jurisdiction of the KMC. The legal representation filed on behalf of the petitioner is alleged to be kept pending.

On a perusal of the said representation, it appears that the same has not been forwarded to the Executive Engineer, Building Department of the Borough but has been forwarded to the Commissioner, and other authorities of the Corporation.

None represents the respondents.

Affidavit-of-service filed today in Court be kept with the records.

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

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 added respondent 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.

The petitioner is directed to forward a copy of the representation dated 9th June, 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.)