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26.02.2024
d.p.

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

W.P.A 13020 of 2023

**Richard Raphael
-versus
Bidhannagar Municipal Corporation & Ors.**

**Ms. Asmita Chakraborty,
Ms. Arunima Lala,
Mr. Joydeep Mishra,
Mr. Subhamoy Patra.
...For the Petitioner.**

**Mr. Manik Lal Poddar.
...For the Respondent No.4.**

**Mr. Tirthankar Dey,
...For BMC.**

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

The petitioner complains that the parking area of Block-4 and Block-1 under Flat Nos. 1D and 1C and 1M and 1N respectively have been converted into Ceremonial/Banquet Halls and given out on rent.

It has been submitted that the sanctioned plan contains specific provision for the car parking spaces which is being mis-utilized by the Welfare Association of the said society.

Objection lodged against such unauthorized use of car parking space is yet to be considered.

Learned advocate appearing for the Welfare Association of the society in question denies the allegation of the petitioner. It has been submitted that the construction in question completed long back. The parking lots are used as parking spaces and not as alleged by the petitioner.

Without going into the merits of the allegation and the counter allegation of the parties 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 Bidhannagar Municipal Corporation 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 13th April, 2023 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.)