

10-05-2024
Item No.87 ML
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.15370 of 2022
Samir Kumar Ghosh
-vs-
The Strata of West Bengal & Ors.

Ms. Moumita Ghosh ...for the petitioner

The petitioner complains of illegal and unauthorized construction over a passage between holding nos. 12 and 13, Banku Behari Ghosh Lane, Howrah within the jurisdiction of Bally Municipality.

The petitioner relies upon a communication made under the Right to Information Act, 2005 by the municipality mentioning that there is no sanctioned plan for raising construction thereon. Objection filed against such unauthorized construction is pending consideration at the end of the Bally Municipality.

None to oppose the writ petition. Affidavit of service is taken on record.

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 respondent no.2 being the Bally Municipality to consider and dispose of the petitioner's representation dated December 10, 2021 (Annexure P9, p.29) strictly in accordance with law by giving a reasoned decision, 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 reasoned decision once passed shall be communicated to all the necessary parties, including the petitioner forthwith.

A spot inspection shall be conducted to ascertain the nature and extent of the unauthorised construction.

In the event the said respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid of the sanctioned plan, then necessary steps shall be taken dealing with such unauthorized construction, in accordance with law.

The said respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute between the parties regarding right, title and interest in respect of the concerned land.

It is made clear that this court has not entered into the merits of the petitioner's claim, and that all points are left open to be decided by the said respondent at the time of consideration of the petitioner's representation.

The petitioner is directed to forward a copy of the representation dated December 10, 2021 to the said respondent at the time of communication of the order of the court.

The writ petition stands disposed of. No order as to costs.

Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]