

10-05-2024
Item No.90 ML
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.15523 of 2022
Swapan Halder

-vs-

The Chairman, Burdwan Municipality & Ors.

Mr. P.K. Bhattacharya ...for the petitioner

Mr. Subhasis Bandyopadhyay ...for municipality

The petitioner complains of illegal and unauthorized construction at the behest of the private respondent. Objection filed against such unauthorized construction is alleged to be kept pending before the Burdwan Municipality.

None represents the private respondent. Affidavit of service is taken on record.

Learned advocate representing the Burdwan Municipality submits that the petitioner has not mentioned the holding number where the unauthorised construction is underway. According to him, because of non-mentioning of the holding number of the subject premises, it will be difficult for the municipality to identify the plot where the unauthorized construction is proceeding.

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 Burdwan Municipality to consider and dispose of the petitioner's representation dated May 2, 2022 (Annexure P3, p.30) 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.

The municipality is directed to cause a spot inspection of the land in question upon prior notice to both the parties. It will be the responsibility of the petitioner to identify the spot where the unauthorized construction is on.

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 May 2, 2022 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]