

Item No.110

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

10.05.2024
Ct-24

WPA 16921 of 2022
Smt. Tapasi Dutta

v.

The Howrah Municipal Corporation & Ors.

Mr. Anil Kumar Chattopadhyay
Mr. Dinesh Pari
... for the petitioner.

Mr. Sima Adhikari
Ms. Kakali Naskar
... for the State.

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobham Majumder
Ms. Shetparna Roy
... Howrah Municipal Corporation.

The petitioner complains of illegal and unauthorized construction at the behest of the private respondent. Complaint lodged against such unauthorized construction is alleged to be kept pending.

On a perusal of the said complaint dated October 14, 2019 it appears that neither the premises number nor the holding number where the unauthorized construction is alleged to be made has been mentioned in the said objection. Only dag numbers have been mentioned.

None represents the private respondent.

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

Learned advocate for the Corporation is unable to produce instruction on account of non-availability of the premises number in the objection filed by the petitioner.

In view of the order that I propose to pass, none of the parties 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 Commissioner, HMC or his delegate 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.

The Corporation is directed to cause a spot inspection upon prior notice to the parties to ascertain the nature and extent of unauthorized construction. It will be the responsibility of the petitioner to identify the

plot of land where the unauthorized construction is being made.

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 October 14, 2019 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.

Sh **(Amrita Sinha, J.)**