

ML 52
15.04.2024
d.p.

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

W.P.A 16597 of 2023

**Shambhu Dey
-versus
The Panihati Municipality & Ors.**

**Mr. Sabyasachi Mukherjee,
Ms. Debarati Choudhury,
Mr. Bibek Dey,
Mr. Syed Neaz Ahmed.
...For the Petitioner.**

**Mr. Soumyajit Bhatta.
...For the Municipality.**

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

Leave is granted to the learned advocate appearing for the petitioner to correct the Ward number of the Panihati Municipality in the cause title of the writ petition. The Ward number should read as **21** in place and instead of 42.

The petitioner complains of illegal and unauthorized construction. Objection filed against such unauthorized construction is alleged to be kept pending.

Learned advocate appearing for the Panihati Municipality submits, upon instructions, that a spot inspection was conducted on 7th July, 2023 and

unauthorized construction of a cantilever was found. The construction is also not as per the deed's site plan.

From the note sheet of the Municipality which has been handed over in Court it does not appear that the spot inspection was conducted upon giving prior notice to the parties.

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.

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.3 being the Board of Councillors, Panihati Municipality 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 10th June, 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.)