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27.02.2024
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In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 17976 of 2023

Krishna Samanta & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Victor Chatterjee,
Mr. Barnamoy Basak,
Mr. Sandeep Chakraborty.
...for the petitioners.

Ms. Noelle Banerjee,
Ms. Dipa Bhattacharya.
...for the State.

Md. Manuwar Ali,
Ms. Moumita Karmakar.
...for the respondent no.6.

Mr. Sandipan Banerjee,
Mr. Ankit Sureka.
....for the Howrah Municipal Corporation.

The petitioners complain of illegal and unauthorised construction at the behest of the private respondents. Objection filed against such unauthorised construction is pending consideration at the end of the Howrah Municipal Corporation.

Learned advocate representing the respondent no.6 denies the allegation of the petitioners. It has been submitted that construction has been made in accordance with the sanctioned plan and the deviation that was made at the time

of construction has been regularised by the Howrah Municipal Corporation and the structure was permitted to be retained.

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.4 being the Commissioner 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.

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.

The petitioner is directed to forward a copy of the representation dated 27th January, 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.)