

27-03-2024
Item No. 238 ML
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.20417 of 2022
Smt. Anita Hore
-vs-
State of West Bengal & Ors.

Mr. Ramashis Mukherjee ...for the petitioner

Mr. Jahar Dutta
Mr. Bipin Ghosh ...for the State

Mr. M. Goswami
Mr. P. Goswami ...for the municipality

Leave is granted to the advocate-on-record for the petitioner to amend the description of the second and third respondents in the cause title of the writ petition – the Board of Administrators shall be replaced by the expression ‘Board of Councillors’.

Notice of upgradation upon the private respondent (respondent no.7) has come back unserved with the postal endorsement ‘refused’.

The petitioner complains of illegal and unauthorised construction at the behest of the private respondent. An objection alleging unauthorised construction is pending consideration at the end of the Madhyamgram Municipality.

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 Madhyamgram Municipality to consider and dispose of the petitioner's representation dated October 27, 2023 (p.88) 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 October 27, 2023 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]