

15-05-2024
Item No.180 ML
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.20743 of 2022
Kuddus Ali Laskar & Ors.
-vs-
The State of West Bengal & Ors.

Md. Mansoor Alam ...for the petitioners

Mr. Sounak Bhattacharya
Mr. Sounak Mondal ...for private respondents

Leave is granted to the advocate-on-record for the petitioners to amend the description of the third respondent in the cause title of the instant writ petition here and now.

The petitioners complain of illegal and unauthorized construction at V-172, Karbala Road, Rajabagan Kolkata – 700018. The complaint against such unauthorized construction is alleged to be kept pending.

Learned advocate for the private respondents submits, upon instructions, that no new construction has been made in the subject premises. He relies upon an order passed by this court in WPA No.27524 of 2023 (Yeabar Hossaion Laskar v. The Kolkata Municipal Corporation & Ors.) wherein the court passed an order directing the Corporation to deal with the unauthorized construction at the subject premises in accordance with law.

Learned advocate for the petitioners submits that

the top two floors of the subject structure have already been demolished, but that the ground and the first floor of the structure in question still exists which are also required to be demolished as the same was constructed without a valid sanctioned plan.

As it appears that the representation of the petitioners 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 Chief Executive Engineer, Building Department, Borough-XV of the Kolkata Municipal Corporation to consider and dispose of the petitioner's representation dated August 31, 2022, 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 petitioners' representation.

The petitioners are directed to forward a copy of the representation dated August 31, 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]

