

22-04-2024
Item No.68-ML
S.H.
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.21024 of 2023
Sri Arindam Roy & Ors.
-vs-
The State of West Bengal & Ors.

Mr. N. Chatterjee
...for the petitioners.

Mr. Debasis Kar
Mr. Arka Tilak Bhadra
Mr. Subhajit Chowdhury
...for the respondent no. 9.

Ms. Mousumi Choudhury
Ms. Deblina Dasgupta
... for the State.

Mr. Debasis Kar
Mr. Arka Tilak Bhadra
Mr. Subhajit Chowdhury
... for the respondent nos. 9 to 12.

Affidavit of service filed in Court is taken on record. None represents the Barrackpore Municipality.

The complaint of unauthorized construction filed by the petitioners is pending consideration before the Municipality.

A complaint was lodged before the learned Executive Magistrate, Barrackpore, North 24-Parganas under Section 144(2) CrPC which was forwarded to the Municipality in June 2023. There is no response from the end of the Municipality.

The allegation of the petitioners is that fraud has been committed for obtaining sanction and construction is being made beyond the sanctioned plan.

Private respondents deny the allegation of the petitioners. It has been submitted that the construction is being made in accordance with the plan sanctioned.

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 to consider and dispose of the representation made by the petitioners 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 petitioners 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

Learned advocate appearing for the petitioners is directed to forward a copy of the petition under Section 144(2) CrPC being MP Case no. 1585 of 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]

