

ML 208
15.05.2024
d.p.

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

W.P.A. 21967 of 2022

**Nizamuddin Ahmed
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Siddhartha Deb Roy.
...For the Petitioner.**

**Mr. Tapan Coomaar Dey.
...For KMC.**

**Mr. Himadri Sikhar Chakraborty,
Ms. Susnita Saha.
...For the State.**

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

None appears on behalf of the private respondents.

The petitioner prays for consideration of the representation dated 13th September, 2022 alleging illegal and unauthorized construction at the behest of the private respondents.

In view of the order that I propose to pass, none of the non-appearing respondents 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.4 being the Executive Engineer, Building, Borough-VII 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 13th September, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

Instruction given by the Officer-in-Charge, Tiljala Police Station signed on 27th September, 2022 is taken on record.

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.)