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10.01.2024
d.p.

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

W.P.A 22875 of 2023

**Dipankar Banerjee
-versus
Bolpur Municipality & Ors.**

**Mr. Sharanya Chatterjee.
...For the Petitioner.**

**Mr. Uttiya Ray,
Mr. Ashutosh Pal.
...For the Respondent
Nos. 1 and 2.**

**Mr. A. Banerjee,
Mr. Rajarshi Chatterjee,
Mr. Sayantan Banerjee.
...For the Respondent No.6.**

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

The petitioner complains that the private respondents are guilty of raising unauthorized construction. Further allegation is that the Municipality sanctioned the building plan not in accordance with the provisions of the Act.

An objection is pending consideration before the Municipality.

Learned advocate appearing for the private respondents submits, upon instructions that, the construction is being made in accordance with the building sanctioned plan.

Learned advocate appearing for the Municipality submits that a civil suit alleging unauthorized construction is pending consideration before the Learned Civil Court. The Municipality is a party in the said suit. Stop work notice has been issued by the Municipality.

Submission is that the instant writ petition will not be maintainable and will be hit by the principle of *res judicata*.

I am of the opinion that as the issues relates to unauthorized construction, the Municipality is the competent authority to take a decision with regard to the same.

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 Board of Councilors, Bolpur Municipality 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 28th/29th August, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)