

19
02.01.2024
AGM

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

W.P.A 23919 of 2023

**Abhijit Dutta
-versus
The State of West Bengal & Ors.**

**Mr. Sounak Bhattacharya
Mr. Sounak Mondal
Mr. Abhirup Halder
...For the Petitioner.**

**Md. Mansoor Alam.
Mr. Debnarayan Patra
...For the State.**

**Mr. Subhasis Bandopadhyay.
...For the Municipality.**

**Mr. Arun Shaw
... For the private respondent.**

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

The petitioner complains that the private respondent has raised construction by filling up a water body without obtaining any sanction plan or necessary permission for conversion of the classification of the land.

The petitioner relies upon an information provided under the Right to Information Act mentioning that as per the office records no plan was sanctioned in

Ward No. 31, Holding No. 76/A in the name of Basudeb Sarkar, the private respondent herein.

Complaint was lodged before the Burdwan Municipality in May 2023 but the same is pending consideration till date.

Learned advocate representing the private respondent denies the allegation of the petitioner.

Learned advocate representing the municipality submits that steps will be taken to consider the complaint filed by the petitioner.

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 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 29th May, 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.)