

05-02-2024
Item No.20
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.24559 of 2023
Sri Goutam Chatterjee
-vs-
The State of West Bengal & Ors.

Mr. Debasish Chattopadhyay
Mr. Loknath Paul ...for the petitioner

Mr. Arka Kumar Nag
Mr. Ritesh Kumar Ganguly ...for the State

Mr. Shibazi Kumar Das
Mr. Dipendu Sarkar ...for respondent no.7

Supplementary affidavit filed on behalf of the petitioner be taken on record.

The petitioner complains of illegal and unauthorised construction at the behest of the private respondent (respondent no.7) at the Western side of the land in Mouza No. 88 Dogachia, L.R. Dag No.1075, L.R. Khatian No.904, R.S. Dag No.716, district Nadia, P.S. Kalyani under Gayeshpur municipality.

A complaint of such unauthorised construction lodged before the municipality is alleged to be kept pending.

Learned advocate representing the private respondent submits, upon instructions, that the construction already existed prior to purchase of the property in question by the private respondent in the year 2006. The allegation of unauthorized construction has been denied.

None represents the municipality.

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, I am of the view that the writ petition may be disposed of by the following order.

The writ petition is accordingly disposed of by directing the respondent no.2 being Gayeshpur municipality to consider and dispose of the petitioner's representation dated November 28, 2022 (Annexure P7, p.67) 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.

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 of the sanctioned plan, then necessary steps shall be taken dealing 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 between 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 petitioner's claim, and that all

points are left open to be decided by the aforesaid respondent at the time of consideration of the petitioner's representation.

The petitioner is directed to forward a copy of the representation dated November 28, 2022 to the aforesaid respondent at the time of communication of the order of the court.

The writ petition stands disposed of. No order as to costs.

Certified of this order, if applied for, be made available to the parties on compliance of usual legal formalities.

[Amrita Sinha, J]

