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

W.P.A 24594 of 2023

**Chameli Gomes
-versus
The Kolkata Municipal Corporation & Ors.**

**Ms. Pooja Shukla,
Ms. Rupsa Sreemani.
...For the Petitioner.**

**Mr. Syed Shahid Imam,
Mr. Subhojit Seal.
...For the Respondent No.9.**

**Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya.
...For KMC.**

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

The petitioner complains of illegal and unauthorized construction at the behest of the private respondents at premises no. 19B, Ananda Palit Road, Ward No. 55, Borough-VI under jurisdiction of the Kolkata Municipal Corporation.

The petitioner alleges that the private respondents have raised construction in deviation of the sanctioned plan. Additional floors have been constructed without leaving the mandatory side open spaces.

Complaint was lodged before the respondent authority but the same is yet to be disposed of.

Learned advocate appearing for the private respondent no. 9 submit, upon instructions, that the construction is being made in accordance with the plan sanctioned. Allegation of unauthorized construction has been denied.

Learned advocate appearing for the Kolkata Municipal Corporation submits, upon instructions, that upon inspection deviation from the sanctioned plan has been detected. The Corporation has issued stop work notice and steps shall be taken under Section 400(1) of the Kolkata Municipal Corporation Act, 1980.

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.5 being the Executive Engineer, Building Department, Borough VI 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 20th June, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The instruction signed on 21st December, 2023 by the engineers of the Corporation 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.)