

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

WPA 25430 of 2023

**Bimal Kumar Modak
-versus
The State of West Bengal & Ors.**

**Mr. Sukanta Chakrabarty,
Mr. Anindya Halder
...For the petitioner.**

**Mr. Hemanta Kr. Das.
...For State.**

**Mr. Shyama Prasad Purkait,
Mr. Moumita Mandal.
...For Diamond Harbour Municipality.**

**Mr. Sandip Das.
...For private respondent.**

The petitioner complains of illegal and unauthorized construction at the behest of the private respondents. Specific submission of the petitioner is that construction is being made over government land without obtaining any sanction and without maintaining the mandatory side open spaces. The petitioner claims that the land in question is recorded in favour of the Irrigation Department of the State.

Objection lodged against such unauthorized construction is yet to be disposed of by the Diamond Harbour Municipality.

Learned advocate representing the private respondents submits, upon instruction that, the construction was made by the petitioner himself. The petitioner claiming to be the owner of the said land sold of the same in favour of the private respondents. The private respondents have obtained permission for

renovating the structure which is standing thereon. The Municipality has permitted the private respondents to renovate the same upon payment of necessary charges.

Learned advocate representing the Municipality admits that the land in question belongs to the Irrigation Department of the State. It has, however, been submitted that the objection filed by the petitioner is yet to be disposed of.

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 Diamond Harbour 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 representations dated 29th May, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

All parties will be at liberty to rely upon documents in support of their stand at the time of hearing before the Municipality.

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.)