

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

WPA 26754 of 2023

**Satya Surya Ghosal
-versus
The State of West Bengal & Ors.**

**Ms. Priya Ghosal.
...For the petitioner.**

**Ms. Sima Adhikari,
Ms. Kakali Naskar.
...For the State.**

**Mr. Gurudash Mitra,
Ms. Debangana Dey Nayak.
...For KMC.**

**Mr. Manas Kr. Ghosh,
Ms. Susmita Dey (Basu).
...For respondent nos. 6 & 7.**

**Mr. Ajay Ray,
Ms. Sanjana Rout.
...For respondent no. 8.**

Leave is granted to the learned advocate on record of the petitioner to implead the Executive Engineer (Civil)/Building, Borough IX and the Municipal Commissioner, KMC as party respondents in the instant writ petition. The formality of serving a copy of the writ petition upon the added respondents stands dispensed with as the Corporation is represented by the learned advocate.

The petitioner claims to be a Shebait of the Bhukailash Debutter Estate situated at 49/1 and 49/2C, Karl Marx Sarani, Ward no. 79, Borough IX under the jurisdiction of KMC. It has been submitted that unauthorized construction is being raised thereon.

Complaints were lodged before the respondent authority but the same is kept pending.

The private respondents are also the Shebaites of the same deity. The private respondent nos. 6 to 8 submit that they are not the persons responsible for raising the construction.

It has been submitted that three Public Interest Litigations being WPA(P) 143 of 2023, WPA(P) 434 of 2023 and WPA(P) 435 of 2023 are pending consideration before the Hon'ble PIL Bench in connection with the alleged unauthorized construction at premises nos. 49/1 and 49/2C.

It appears from the submission made on behalf of the parties that the Public Interest Litigations have not been filed at the instance of the petitioner.

Learned advocate representing the Corporation submits, upon instruction that, the premises 49/1 and 49/2C are not demarcated. The Corporation detected the massive unauthorized construction at the subject premises. It has been submitted that steps are being taken to deal with such unauthorized construction.

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 Executive Engineer (Civil)/Building, Ward no. 79, Borough IX of the KMC 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 30th October, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

Instruction forwarded by the Executive Engineer (Civil)/Building Department, Borough IX signed on 03.01.2024 be retained with the records.

The Officer-in-Charge, South Port Police Station is directed to keep strict vigil over both the properties to ensure that construction in any manner whatsoever is not carried out at the subject premises and no third party right is created in respect of the unauthorized structure at the subject premises. Possession shall not be handed over to any party in respect of the unauthorized structure.

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.)