

25
13.03.2024
AGM/NB

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 28534 of 2023

Reba Banerjee
Vs.
Baranagar Municipality & Ors.

Mr. Mukteswar Maity,
Ms. Manika Sarkar.
...for the petitioner.

Mr. Arijit Dey.
...for the BM.

Mr. Anirban Majumder,
Mr. Souvik Karmakar,
Ms. Piu Karmakar.
...for the respondent nos.4&5.

Leave is granted to the learned advocate on record of the petitioner to correct the description of the respondent no.1 in the cause title of the writ petition. The respondent no.1 shall read as Baranagar Municipality.

Leave granted to the learned advocate representing the private respondents to file vakalatnama in the department in course of the day.

The petitioner complains of illegal and unauthorised construction at the behest of the private respondent nos.4 and 5. Objection filed against such unauthorised construction before the Baranagar Municipality is pending consideration.

Learned advocate representing the private respondents denies the allegation of unauthorised construction.

A photocopy of the plan allegedly sanctioned by the Municipality for construction of G+3 storied building has been produced before this Court in support of the submission that the construction is being made according to the plan sanctioned.

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 Baranagar 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 representation dated 4th December, 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.)