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13.03.2024
AGM/NB

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 28655 of 2023

Md. Dilshad
Vs.
The State of West Bengal & Ors.

Mr. Binay Shaw.
...for the petitioner.

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

Mr. Suddhadeb Adak.
...for the State.

Ms. Tanushree Das Gupta,
Ms. Manisha Nath.
...for the KMC.

Affidavit of service filed by the petitioner is taken on record. The unserved envelopes addressed to the private respondents are retained with the records after returning the copy of the unserved writ petitions to the learned advocate representing the petitioner.

The report filed by the Corporation be retained with the records.

The petitioner complains of illegal and unauthorised construction at the behest of the private respondents. Objection filed against such unauthorised construction is pending consideration.

The copy of the writ petition could not be served upon the private respondents and the envelope has come back unserved with the postal endorsement "Addressee cannot be located".

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.6 being the Executive Engineer (Civil) Building, Kolkata Municipal Corporation, Borough No.-VII, Ward No.-065 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 24th August, 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.)