

ML 110
29.04.2024
d.p.

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

W.P.A 28711 of 2023

**Subrata Nayak & Anr.
-versus
The Commissioner, Kolkata Municipal
Corporation & Ors.**

**Mr. Soumyajit Bhatta,
Mr. Susenjit Banik,
Mr. Mrinal Saha.
...For the Petitioners.**

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

**Mr. Srijan Nayak,
Ms. Rituparna Maitra.
...For KMC.**

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

The petitioners pray for consideration of the representation dated 27th July, 2022 alleging illegal and unauthorized construction at the behest of the private respondents.

None appears for the private respondents.

In view of the order that I propose to pass, none of the parties will be prejudiced if the writ petition is disposed of in the following manner.

The petitioners complain that the objection raised against such illegal construction has not been considered by the respondent authorities till date.

As it appears that the representation of the petitioners 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.3 being the Executive Engineer, Building Department to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners 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 petitioners 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

Learned advocate appearing for the petitioners is directed to forward a copy of the representation dated 27th July, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Report filed by the Officer-in-charge, Narkeldanga Police Station dated 2nd January, 2024 be retained with the records.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)