

OD-4

ORDER SHEET
WPO No.451 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

ZAMIR KHAN
VERSUS
THE STATE OF WEST BENGAL & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 17th May, 2024.

Appearance:
Mr. Prasenjit Mukherjee, Adv.
Md. Shakir, Adv.
... for the Petitioner.

Mr. Barin Banerjee, Adv.
Mr. Gopal Chandra Das, Adv.
...for KMC.

Mr. Debangshu Dinda, Adv.
Mr. Dipanjan Datta, Adv.
Mrs. Paromita Malakar (Dutta), Adv.
..for the State.

The Court:- The petitioner complains of illegal and unauthorized construction at the behest of the private respondents at 45A/H/3, Canal East Road under Borough-III of the Kolkata Municipal Corporation. Objection lodged against such unauthorized construction is alleged to be pending consideration.

None represents the private respondents.

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

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

The writ petition is accordingly disposed of by directing the Executive Engineer (Civil)/Building Department, Borough-III of the Kolkata Municipal Corporation, being respondent no.5 herein 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 8th April, 2024 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all legal formalities.

(AMRITA SINHA, J.)