

23
19.12.2023
d.p.

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

W.P.A 22443 of 2023

**Smt. Saraswati Pramanik
-versus
The State of West Bengal & Ors.**

**Mr. Sajal Kanti Bhattacharyya,
Mr. S. Das,
Mr. S. Barman.
...For the Petitioner.**

**Mr. Shyama Prasad Purkait,
Ms. Moumita Mondal.
...For the Respondent
Nos. 3 and 4.**

**Mr. Tapas Kumar Adhikari.
...For the State.**

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

The petitioner complains of illegal and unauthorized construction at the premises bearing Dag No. 309 (RS), 678 (LR), Mouza-Raynagar, Ward No. 11 under the Diamond Harbour Municipality.

A complaint was lodged before the Municipality in response of which stop construction notice was issued by the Municipality on 15th March, 2023.

The petitioner alleges that no step was taken by the Municipality to stop the unauthorized construction and the construction is nearly over by now.

Learned advocate appearing for the Municipality submits that the stop construction notice was issued immediately after the complaint was filed by the petitioner. It has been submitted that due to pendency of the writ petition, further steps could not be taken.

The private respondent is not represented in Court.

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 petitioner complains 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 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.5 being the Board of Councillors, Diamond Harbour 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 14th March, 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.)