

Item No. ML 1259
& Item No. SL 22
Ct. No. 24
07.03.2024
sayandeep.

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

W.P.A. 25314 of 2023

**Provash Chandra Chakraborty
-versus
The State of West Bengal & Ors.
With**

W.P.A. 26999 of 2023

**Smt. Aparna Mitra & ors.
-versus
The State of West Bengal & Ors.**

**Mr. Bidhayak Lahiri
Ms. Bhaswati Lahiri.
...For the Petitioners in WPA 26999 of
2023 & respondents
in WPA 25314 of 2023.**

**Mr. K.M. Hossain,
Ms. Tanija Basak.
...For State.**

**Mr. Sandipan Banerjee
Mr. Aniket Surekha
Ms. Shetparna Ray
..... for the HMC.**

**Ms. Ajeya Mitra
Mr. K.K. Chakraborty
Ms. Srijani Das
..... for the respondent No. 7 in WPA
26999 of 2023 & for the petitioner in
WPA 25314 of 2023.**

The petitioners in both the writ petitions are neighbours. Both allege illegal and unauthorized construction at the instance of the other.

Aparna Mitra and others have filed complaint before the Howrah Municipal Corporation alleging unauthorized construction at the end of Provash Chandra Chakraborty which is pending consideration.

It appears from the documents annexed to the writ petition filed by Provash Chandra Chakraborty that a formal complaint alleging unauthorized construction at the behest of Smt. Aparna Mitra and others is yet to be filed.

Leave is granted to Provash Chandra Chakraborty to file a formal complaint highlighting the illegalities at the end of Aparna Mitra and others at the time of making construction.

As it appears that the representation filed by Aparna Mitra and others 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 Commissioner, Howrah Municipal Corporation or its delegate to consider and dispose of the representation made by Aparna Mitra and others 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.

In the event objection is filed by Provash Chandra Chakraborty then, the same shall also be considered in the manner as directed herein above.

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 petitioner.

Learned advocate appearing for the petitioners is directed to forward a copy of the representation filed by Aparna Mitra and others 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.)