

Court No. 24
29.01.2021
(Item No. 82)
(AB)

W.P.A 6071 of 2020
+
CAN 2 of 2020
Susanta Dutta
vs
The State of West Bengal & Ors.

Mrs. Rama Halder
...for the Petitioner
Mr. Uttiya Ray
..... For the respondent Nos. 7,
8, 9, 11, 12, 13 & 14
Mr. Soumitra Bandyopadhyay
Mr. Priyabrata Batabyal
..... for the State

In Re. CAN 2 of 2020

The instant writ petition has been dismissed for default on 14.10.2020 on account of non-appearance of the learned advocate for the petitioner.

I have perused the application made for recalling the said order and am satisfied with the grounds mentioned therein for non-appearance of the learned advocate on the day when the matter was taken up for consideration.

In view of the above the order dated 14.10.2020 is recalled.

W.P.A. 6071 of 2020 is restored to its original file and number.

Accordingly, CAN 2 of 2020 stands disposed of.

In Re : WPA 6071 of 2020

The petitioner alleges illegal and unauthorized construction being made by the private respondents in the Plot Nos. 992 and 993 of Mouza – Kulchand, J.L. No. 65.

The petitioner approached this Court on an earlier occasion by filing W.P. 18090 (W) of 2019 praying for a direction upon the respondent authorities to allow him to carry on his repairing work.

In the said petition the private respondents submitted that on the garb of repairing work the petitioner was carrying on unauthorized construction and the Court was pleased to direct the District Magistrate, Purba Bardhaman to take a decision in respect of the petitioner's representation within a specified time after giving an opportunity of hearing to all the parties. The Court further recorded that if it is found that the petitioner in the garb of repairing was carrying on unauthorized construction thereby filling up the water-body without obtaining any sanction plan or without taking permission for conversion of the same, then the District Magistrate to take steps for demolition of the unauthorized construction in accordance with law.

In compliance of the order passed by the Court the matter was considered by the authority and a finding was arrived at, that the petitioner was making unauthorized construction without obtaining any sanction plan by filling up the water-body and without taking any step for conversion of the same. Direction was passed for demolition of the said unauthorized illegal construction to the extent which was within the water-body. It has been submitted by the petitioner that in terms of the said order the unauthorized illegal construction has since been demolished.

The petitioner presently submits that the private respondent is making illegal and unauthorized construction by filling up the pond and constructing house thereon. The petitioner has approached the Superintendent of Police as well as the Officer-in-Charge of the Bhatar Police Station for taking necessary action against such illegal and unauthorized construction. The petitioner complains that the representation filed by the petitioner have not been considered by the respondent authority till date.

It appears from record that the petitioner has not approached the concerned Panchayat authority alleging the illegal construction that is

being made by the private respondent. In view of the above no relief can be granted in favour of the petitioner in the instant case.

In the event, the petitioner makes any representation before the Panchayat alleging illegal construction by the private respondent, the same shall be considered by the authority, strictly in accordance with law, after giving an opportunity of hearing to all the parties. The said authority shall consider the representation and pass a reasoned order within a period of twelve weeks from the date of receipt of the representation and communicate the same to all the parties immediately thereafter.

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 writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)