

Court No. 24

05.03.2021

(Item No. 32)

(AB)

W.P.A 3911 of 2021

Sukumar Das

vs

The State of West Bengal & Ors.

Mr. Imtiaz Ahmed
Mrs. Ghazala Firdaus
Mrs. Smita Saha
Mr. Supriya Majumder
Mr. Sk. Saidullah
Ms. Arunima Mukhopadhyay
Mr. Debopam Roy

..... for the petitioner

Mr. Ashis Kumar Guha
Mr. Naren Ghoshdastidar
Mr. Khairul Alam

..... for the State

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

The petitioner alleges illegal and unauthorized construction by the private respondents without a sanction plan at Mouza – Bohichberia, J.L. No. 17, L.R. Khatian No. 1239, Dag No. 1162 and in the Khatian No. 1091, Dag No. 1238.

The petitioner submits that a Suit is pending in respect of the Dag No. 1162 and an order of injunction has been passed by the learned Civil Judge (Senior Division), 2nd Court, Tamluk, Purba Medinipur on 6th August, 2019 being Title Suit No. 98 of 2019 (Arati Das & 9 others Vs. Janmenjoy Das & 5 others).

The learned Court by order dated 6th August, 2019 specifically directed the parties to maintain status quo in respect of the schedule property and not

to change their nature and character as it stands on the day. It has been submitted by the petitioner that the interim order has been extended and is subsisting till date. The petitioner submits that the construction if being made in violation of the order of injunction passed by the learned Court.

The learned advocate representing the State respondents have received instruction from the Officer-in-charge of the Nandakumar Police Station wherein it is mentioned that on 11th August, 2019 an inspection was conducted by the Police and it was found that the private respondents started construction over the Dag No. 1162 violating the order of the Court. On the basis of the written complaint filed by the petitioner, Nandakumar Police Station Case No. 347/19 dated 11th August, 2019 under Sections 188/506/34 of the I.P.C. has been initiated. The investigation of the case has ended in a charge sheet vide Nandakumar Police Station Charge Sheet No. 294/19 dated 23rd August, 2019.

On the basis of subsequent complaints lodged by the petitioner before the Police Station proceeding under Section 107 of the Cr.P.C. has been initiated. On 21st January 2021 and again on 17th February, 2021 proceeding under Sections 447/341/323/325/379/506/34 of the I.P.C. has been initiated against the private respondents.

The petitioner made representations before the respondent authorities on 31.07.2019 and 11.08.2019. He alleges that the same has not been considered by the respondent authorities till date.

None appears on behalf of the private respondents despite service.

As it appears that the representations 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. 3, Kumarchak Gram Panchayet 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 six 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.

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 unauthorised 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 civil 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.

As it appears that there is already an order of status quo passed by the learned Civil Court in respect of the plot in question, accordingly the respondent Nos. 7 to 11 are restrained from making any further construction in the aforesaid plot till a decision is taken by the Gram Panchayat in response to the representation filed by the petitioner.

The Officer-in-charge of the Nandakumar Police Station shall ensure compliance of the order of status quo passed by the learned Civil Court in the pending Title Suit.

The petitioner is directed to forward a copy of the representations dated 31.07.2019 and 11.08.2019

to the aforesaid respondent at the time of communicating the order of the Court.

The instruction given by the Nandakumar Police Station to the learned advocate is retained with the records.

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

(Amrita Sinha, J.)