

23.03.2021
p.b.
Sl. No.130

W.P.A. 4663 of 2021

Mahendra Pandit & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Kunal Ganguly.
.....for the petitioners.
Mr. Susanta Kumar Mukherjee,
Mr. Hare krishna Haldar,
Mr. Syed Julfikar Ali.
.....for the State.

The petitioners allege illegal and unauthorised construction by the private respondents without taking the necessary sanction from the gram panchayat.

It appears that by a notice dated August 22, 2020 the Pradhan of the gram panchayat directed the private respondent to stop making any construction as the construction that is being made is without the necessary sanction from the gram panchayat.

It further appears from records that a Title Suit is pending in between the parties in the Court of the learned Civil Judge (Senior Division), Ghatal, Paschim Medinipur being T.S. No.38 of 2020 and an order has been passed in the said Title Suit whereby the defendants therein, that is the private respondents herein has been restrained from making any further construction within the scheduled suit plot, save and except the ancillary works for completion of

the construction already made. The Court further ordered that the restraint order shall not prevent the local panchayat to direct stoppage of the construction if it is found that the same is flouting the building rules.

In the instant case, it appears that the Pradhan has already taken note of the unauthorised construction and issued a notice to the private respondents directing them to stop the construction. The petitioners allege in spite of the stop work notice, the private respondents are carrying on with the unauthorised construction.

The petitioner has filed a representation before the Pradhan of the gram panchayat highlighting their grievances. The same remains unheeded till date.

As it appears that the Pradhan has already issued a notice of stop work against the private respondent, the respondent no.2, the Pradhan, Ajabnagar-II Gram Panchayat is directed to take necessary consequential steps pursuant to the stop work notice issued against the private respondents, upon consideration of the representation filed by the petitioners, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioner, within a period of twelve weeks 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 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 petitioners are directed to forward a copy of the representation dated September 29, 2020 and the stop work notice dated 22nd August, 2020 issued by the Prodhan of the Gram Panchayat to the aforesaid respondent at the time of communicating the order of the Court.

W.P.A. 4663 of 2021 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.)