

Court No. 24
18.03.2021
(Item No. 128)
(AB)

W.P.A 5179 of 2021
Rampada Maity
vs
The State of West Bengal & Ors.

Mr. Rwitendra Banerjee
Mr. Sandip Kundu
..... for the petitioner
Mr. Ramashis Mukherjee
Mr. Rameshwar Sinha
..... for respondent No. 8
Mr. Santanu Kumar Mitra
Mr. Mirza Kamruddin
..... for the State

Affidavit of service filed in Court is taken on record.

The petitioner alleges that the private respondent is making construction in deviation of the plan sanctioned and without maintaining the mandatory open side spaces in the Southern side of the petitioner's land at L.R. Plot No. 610/1414, L.R. Khatian No. 698, J.L. No. 56, Mouza Beliaghata, Police Station Daspur, District – Paschim Medinipur.

The petitioner complains that the representation filed by him before the Panchayat has not been considered by the respondent authorities till date.

The learned advocate appearing on behalf of the private respondent denies the allegation of the petitioner. It has been submitted that the construction is being made strictly in accordance with the plan sanctioned and by maintaining the mandatory side open spaces.

The learned advocate appearing on behalf of the State submits that they do not have any instruction in the matter.

None appears on behalf of the Daspur-II Gram Panchayat despite service.

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 Daspur-II Gram Panchayat and the Pradhan being the respondent Nos. 2 and 3 herein 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, at the earliest, but positively 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.

The Pradhan shall depute a competent person to conduct any inspection and record as to whether the mandatory side open spaces has been maintained

by the private respondent at the time of making 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 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The petitioner is directed to forward a copy of the representation dated 03.02.2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands 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.)