

Item No.51

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

20.04.2021
Ct-24

W.P.A.7685 of 2021
Tarifuddin Mistry
v
The State of West Bengal & Ors.

Mr. Lakshminath Bhattacharya
... for the petitioner.

Mr. Rahindranath Mahato
... for the private respondents.

The petitioner alleges illegal and unauthorized construction by the private respondents over an agricultural plot of land recorded as 'Sali'.

On enquiry made by the petitioner under the Right to Information Act he was informed by the Secretary in-charge of the Gram Panchayat that no permission has been sought for making construction over the said plot of land.

The petitioner objected to the unauthorized construction by a representation to the Pradhan, posted on February 1, 2021 and complains that the same has not been taken into consideration till date.

The learned advocate appearing on behalf of the private respondents denies the allegation of the petitioner. It has been submitted that the construction

made in the aforesaid plot of land is an old one and an application to that effect has been made before the Gram Panchayat. It has further been submitted that necessary conversion of the land from 'Sali' to 'Bastu' has been duly made.

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 Gram Panchayat through its Pradhan being the respondent nos. 10 and 11 respectively, 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.

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 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 petitioner is directed to forward a copy of the representation posted on February 1, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

WPA 7685 of 2021 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(**Amrita Sinha, J.**)