

Item No. 59

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(Via Video Conference)

28.01.2021
Ct-24

WPA No. 15159 of 2019
Shyamapada Panda
v.
The State of West Bengal & Ors.

Mr. Bhaskar Chandra Manna
... for the petitioner.

Mr. Maloy Krishna De
... for the State respondents.

The petitioner alleges that the private respondents are making construction in the undivided plot of land, which belongs to the petitioner as well as the private respondents. The petitioner also complains that the said construction is being made without obtaining any sanction plan from the Panchayat Authority.

It appears from records that the petitioner and the private respondents are the co-sharers of the plot in question. It is not open for the Panchayat to decide upon the title of land. The Panchayat can only be directed to consider the prayer of the petitioner as regards the alleged illegal construction that is being made by the private respondents herein.

The petitioner claims to have submitted a representation to the Pradhan of the Bathuari Gram

Panchayat-II, but there is no proof of service of the said representation.

Accordingly, the instant writ petition is disposed of by directing the Panchayat Authority to look into the grievance of the petitioner as regards the illegal construction being carried on in the premises in question. The petitioner will be at liberty to approach the Civil Court for declaration of his right, title and interest in the property in question. The Panchayat shall not enter into the issue of ownership or title of the land in question in any manner whatsoever.

The petitioner shall file a fresh representation before the Panchayat Authority annexing all documents in his support. In the event, such representation is filed within a fortnight from date, the same shall be considered by the respondent no. 7, strictly in accordance with law, after giving an opportunity of hearing to the petitioner and all other necessary parties, within a period of three months from the date of receipt of the representation filed by the petitioner. The said respondent shall pass a reasoned order and communicate the same to the petitioner and all the necessary parties immediately thereafter.

It is made clear that this Court has not gone into the merits of the claim of the petitioner and all point are left open to be decided by the said respondent at the

time of consideration of the representation of the petitioner.

WPA No. 15159 of 2019 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.)