

D/L
Item No. 53
17.08.2022
KOLE

WPA 24 of 2022

Safiulla Sekh
-Vs.-
The State of West Bengal & Ors.

Mr. Shahan Shah,

...for the petitioner.

Mr. Susanta Pal,
Mr. A. Neogi,

...for the State.

Mr. Gari F. Hossain,
Mr. Md. H. Rahaman,
Mr. P. Mondal,

...for the private respondents.

Affidavit of service filed in court today be kept with the records.

The petitioner alleges illegal and unauthorized construction at the instance of the respondent nos. 6 and 7. The petitioner claims that the representation before the Pradhan submitted on 15th March, 2021 highlighting the unauthorized construction has not been answered.

Learned Advocate representing the respondent nos. 6 and 7 submits that there is a civil suit in between the parties being T.S. Case No. 496/18. The Civil Judge (Sr. Division), 2nd Court, Baruipur, passed an order on 3rd February, 2021 permitting the defendant no. 5 therein to make the roof of the room of asbestos shed replacing the broken tiles and bamboo construction. The order was passed by the learned Court below relying upon the Commissioner's report which mentions that the room of the defendant no. 5 is in a very

pitiable state and urgent repair works were necessary. Learned Advocate representing the respondent nos. 6 and 7 submits that the repairing work, pursuant to the leave of the Learned Judge, has only been conducted and there is no unauthorized construction as such.

It appears from the submissions made on behalf of the parties that the property in question is a joint property. Civil suit is pending in between the parties. The repairing work was undertaken pursuant to the leave granted by the learned Court.

In the event, the private respondents are making construction contrary to the order passed by the learned Civil Judge, then it will be open for the petitioner to approach the learned Court below which is in seisin of the matter. No relief can be granted in the present writ petition.

The writ petitioner stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)