

Item No. 132

29.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 4326 of 2022
Lal Mohan Bhakat

v.
The State of West Bengal & Ors.

Mr. Kushal Chatterjee
Mr. Subhasis Mitra
Mr. Debaabrata Roy
... for the petitioner.

Mr. Rajarshi Basu
Mr. Parikhit Goswami
... for the State respondents.

The petitioner alleges illegal construction over sali land being Dag No. 3621/4941, Mouza- Jalaghata, J.L. No. 79, P.S.-Singur, District-Hooghly.

The petitioner submits that a Suit for partition is pending in respect of the self-same plot of land and in violation of an order of status quo that has been passed by the learned Court below in the pending Suit, the defendant in the said suit alienated portion of the land in question in favour of the respondent nos. 7 & 8.

It has further been submitted that the construction was being made by the respondent nos. 7 & 8 without conversion of the classification of the land. Boundary wall above six feet is being constructed on the said plot of land.

The petitioner alleges that the representation filed before the Pradhan, Baruipara Gram Panchayat on February 9, 2022 has not been considered till date.

None appears on behalf of the private respondents.

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 aforesaid respondents will not be prejudiced if the present writ petition is disposed of in the following manner.

The writ petition is accordingly disposed of by directing the respondent no. 6, the Baruipara Gram Panchayet 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 three months from the date 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.

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 Panchayat Authority will not decide the right, title and interest of the parties and will restrict the decision only with regard to unauthorized construction being made without a sanctioned plan.

The petitioner is directed to forward a copy of the representation dated February 9, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)