

**Sl. No.108**  
**10.08.2022**

Court No.24  
B.M.

**In The High Court At Calcutta**  
**Constitutional Writ Jurisdiction**  
**Appellate Side**

**WPA 4557 of 2022**

**Tamanash Das**  
**Versus**  
**The State of West Bengal & Ors.**

Mr. Soumen Bhattacharjee  
... for the petitioner  
Mrs. Sanghamitra Nandy  
Mr. Bidhan Biswas  
... for the State  
Mrs. Manjuli Chowdhury  
Ms. Mekhla Sinha  
... for the respondent nos.2 & 3/  
Howrah Zilla Parishad

The petitioner and the respondent nos.8 & 9 are adjacent neighbours.

The petitioner alleges illegal and unauthorised construction at the instance of the respondent nos.8 & 9 in Mouza-Mashila, J. L. No.24, P.S. Sankrail, Howrah, Dag No. L.R & R.S 3, Khatian R.S No.314, 803, L.R Khatian No.4998, 4069, District-Howrah.

The petitioner objected to the unauthorised construction by filing representation on 22<sup>nd</sup> November, 2021 to the respondent authorities. The Pradhan of the Gram Panchayat by a communication dated 2<sup>nd</sup> December, 2021 addressed to the respondent nos.8 & 9 requested the aforesaid respondents to visit the office of the Gram Panchayat along with all relevant papers, in

default, construction will be reported as illegal and unauthorised.

The petitioner is unaware as to whether the private respondents at all produced documents in support of the said construction.

The petitioner thereafter filed a separate representation dated 7<sup>th</sup> December, 2021 and alleges that the same has not been considered by the respondent authorities till date.

Learned advocate representing the Howrah Zilla Parishad submits, upon instruction that, the property in question falls within the jurisdiction of the Howrah Zilla Parishad.

The Pradhan of the Mashila Gram Panchayat however, has received copy of the writ petition. None appears on behalf of the Gram Panchayat despite service.

Respondent nos.8 & 9 does not appear to have been served. The postal endorsement shows that the postal article could not be delivered in view of insufficient address. The said respondents would not be prejudiced if the writ petition is disposed of in the following manner.

As it appears that the representation filed by the petitioner alleging illegal and unauthorised construction is yet to be disposed of by the respondent authority and the learned advocate representing Howrah Zilla Parishad submits that the land in question where construction has been made falls within the jurisdiction of Howrah Zilla

Parishad, accordingly, the instant writ petition is disposed of by directing the respondent no.2 to consider the representation filed by the petitioner on 22<sup>nd</sup> November, 2021 strictly in accordance with law, at the earliest, by giving reasonable opportunity of hearing to the petitioner and the private respondents and pass a reasoned order and communicate the same to the parties.

The men and agents of the Howrah Zilla Parishad shall conduct a site inspection after giving prior notice to the petitioner, respondent nos. 8 & 9 and the Pradhan of the Gram Panchayat to ascertain as to whether the construction was made in accordance with law or not.

Steps shall be taken to dispose of the representation of the petitioner positively within a period of eight weeks from the date of communication of this order.

The petitioner is directed to forward a copy of the representation dated 22<sup>nd</sup> November, 2021 and a copy of the communication by the Pradhan dated 2<sup>nd</sup> December, 2021 to the respondent no.2 at the time of communicating the order of this Court.

It is made clear that this Court has not entered into the merits of the claim of 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.

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.

Learned advocate for the petitioner is directed to forward a copy of the representation filed by the petitioner on 22<sup>nd</sup> November, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Affidavit of service filed in Court is taken on record.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

**( Amrita Sinha, J.)**