

Sl. No.14
23.08.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 4744 of 2022

Madhusudan Das
versus
The State of West Bengal & Ors.

Mr. Tanmoy Chowdhury
Ms. Ritoprita Ghosh

... for the Petitioner.

Ms. Sutapa Sanyal
Ms. Susnita Saha

... for the State

None appears on behalf of the private respondent despite service.

The petitioner alleges illegal and unauthorised construction at the instance of the respondent no.5. The petitioner and the respondent no.5 are co-owners of the plot in question. Reliance has been placed upon a certificate issued by the Pradhan of the Gram Panchayat mentioning that no plan has been sanctioned in favour of the respondent no.5 for making construction.

The petitioner filed an objection before the Pradhan of the Gram Panchayat in January, 2022 and alleges that the same has not been taken up for consideration till date.

Be it recorded that a partition suit is pending in between the parties in respect of the same plot of land being J.L No.154, Dag No.1233.

The writ petition is accordingly disposed of by directing the respondent no.3, the Pradhan, Garhbari-I Gram Panchayat, 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 petitioners within a period of 12 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 petitioners 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 unauthorised 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 dated 3rd January, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

Report filed by the Officer-in-Charge, Bhupatinagar Police Station dated 23rd August, 2022 be retained with the records.

Affidavit of service filed in court is taken on records.

The writ petition 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.)