

Item No. 15

23.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 4775 of 2022

Alok Mondal
v.
The State of West Bengal & Ors.

Mr. Shahan Shah
Mr. Soumen Barman
... for the petitioner.

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

The petitioner alleges illegal and unauthorized construction at the instance of the respondent nos. 6 & 7 over L.R. Dag No. 34, J.L. No. 66, Block & Police Station- Mandir Bazar, Mouza- Uttar Ballavpur.

The petitioner complains that the representation filed by the petitioner before the Pradhan of the Jagadishpur Gram Panchayat against the aforesaid illegal and unauthorized construction has not been taken into consideration by the Pradhan.

It is the specific contention of the petitioner that the property in question is a joint property and construction is being made without obtaining any sanction from the Pradhan.

The affidavit-of-service filed in Court today does not conclusively prove that copy of the writ petition has been served upon the respondents.

In view of the order that I propose to pass, no prejudice shall be caused to the non-appearing respondents, if the writ petition is disposed of by the following directions.

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 writ petition is accordingly disposed of by directing the respondent nos. 3 & 4, 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 January 31, 2022 to the aforesaid respondents 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.)