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24.08.2022
d.p.

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

W.P.A 4984 of 2022

**Samir Kumar Dey
-versus
The State of West Bengal & Ors.**

**Mr. Tanmoy Chowdhury,
Ms. Ritoprita Ghosh.
...For the Petitioner.**

**Mr. Rama Prasad Sarkar,
Ms. Anita Deb Jana.
...For the State.**

**Mr. Snehasis Banerjee.
...For the Respondent
Nos.2 and 3.**

**Mr. Lakshminath Bhattacharya,
...For the Respondent No.5.**

Affidavit-of-service filed in Court today is taken on record.

Learned advocate for the respondent Nos. 2 and 3 submits that he has filed Vakalatnama in the department vide filing No. A-14538. The department is directed to tag the same with the records.

The petitioner is aggrieved by the stop work notice issued by the Pradhan, Kotulpur Gram Panchayat on 7th February, 2022.

The petitioner submits that the construction was being made in accordance with the plan proposal

submitted for sanction by the petitioner before the Pradhan of the Gram Panchayat. The Panchayat accepted the application fees for building construction including development fees and as per assurance given by the Gram Panchayat that the plan will be sanctioned shortly, the petitioner started construction.

It has been submitted that the Panchayat did not intimate the petitioner the reasons for not sanctioning the plan proposal.

Reliance has been placed on the order of conversion of the classification of the land.

Learned advocate appearing for the private respondent submits that the property in question is a joint property and a suit for partition is pending in between the parties.

There is an order passed by the learned Civil Judge, Senior Division at Bishnupur being Title Suit No. 23 of 2022 wherein order has been passed restraining the parties not to change the nature and character of the suit property and the parties have been directed to maintain status quo in respect of the suit property.

Learned advocate appearing for the Gram Panchayat submits, upon instructions, that the Pradhan of the Gram Panchayat intimated the petitioner by a letter dated 14th March, 2022 that in view of the pendency of MP Case No. 251/MP 2021 (Kartick Chandra Dey –vs- Samir Dey & Ors.), issue of sanctioning the plan proposal is temporarily kept in abeyance.

Learned advocate appearing for the petitioner submits that a Suit for partition was filed earlier being T.S. 16 of 2013 and the said Suit stood dismissed for default on 10th February, 2017 by the learned Civil Judge, Senior Division, Bishnupur, Bankura.

It has been submitted that after filing of the writ petition, the subsequent Suit for partition has been filed only with the view to frustrate the writ petition.

It appears from the submissions made on behalf of all the parties that though the application fees for building construction including development fees of Mouza Kotulpur, Plot No. 3953 was submitted by the petitioner on 17th January 2022 but the Panchayat was yet to sanction the plan in favour of the petitioner.

In the absence of a proper sanctioned plan, it was not proper for the petitioner to start construction.

As per the provisions of law, construction can be initiated only after obtaining sanction from the concerned authority.

In the present case, there was no sanction in favour of the petitioner.

It appears that a title suit is pending in between the parties and an order of status quo has also been passed.

Accordingly, at this stage, the petitioner is restrained from making any construction without a proper plan being sanctioned in his favour by the Gram Panchayat.

The impugned stop work notice dated 7th February, 2022 does not call for any interference.

The communication of the Pradhan, Kotulpur Gram Panchayat dated 14th March, 2022 be retained with the records.

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.

(Amrita Sinha, J.)