

Item No. 68

25.07.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 6753 of 2022
Smt. Poli Chakraborty
v.
The State of West Bengal & Ors.

Mr. Prosenjit Mukherjee
Mr. Arghya Kamal Das
Mr. Subhajyoti Das
... for the petitioner.

Mr. Ziaul Islam
Mr. R. Hossain
... for the State.

Mr. Angshuman Chakraborty
... for the respondent no. 7.

The petitioner complains of illegal and unauthorized construction of a building at the instance of the respondent nos. 7 & 8 at Nalikul 16 no. rail gate, P.O.- Nalikul, P.S.-Haripal, District-Hooghly, PIN Code-712407 corresponding to L.R. Dag No. 154 (R.S. Dag No. 135), Mouza-Bargachia, J.L. No. 146, Police Station-Haripal, District-Hooghly.

According to the petitioner, the construction has been made in deviation of the plan that has been sanctioned without maintaining the statutory side open spaces.

The petitioner initially filed a representation before the Pradhan of the Gram Panchayat on September 23, 2021 followed by a notice demanding justice through the learned advocate on March 31, 2022 and alleges that

none of the representations have been taken up for consideration till date.

Learned advocate representing the persons responsible for making construction submits, upon instruction that, the construction has been made strictly in accordance with the plan sanctioned by the Panchayat. There is no deviation from the sanctioned plan.

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. 4 & 5 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 March 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.

Sh

(Amrita Sinha, J.)