

Item No. 143(ML)

19.07.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 8534 of 2021
Namita Ghosh & Ors.

v.

The State of West Bengal & Ors.

Mr. Pradip Kumar Mondal
... for the petitioners.

Mr. Chandi Charan De
Ms. Chandana Ghosh
... for the State.

The petitioners allege illegal and unauthorized construction of a public pathway over the private land of the petitioners in Dag No. 1255, JL No. 168, Mouza-Netra which is recorded in favour of the husband of the petitioner no. 1 and the father of the petitioner nos. 2 to 4.

The record of rights shows that the land in question is classified as Pukur Par and Bastu.

The petitioners immediately raised objection before the respondent authorities in July 2020 and allege that the same has not been taken up for consideration till date.

It is the specific allegation that the Pradhan and his men and agents are responsible for construction of the said pathway.

None appears on behalf of either of the Pradhan, Netra Gram Panchayat or the private respondents.

As it appears that the representation of the petitioners 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 no. 7, the Block Development Officer & the Executive Officer of the Panchayats to consider and dispose of the representation made by the petitioners, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioners, 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 copies of the representations dated July 22, 2020 and March 2, 2021 to the aforesaid respondent 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.)