

Item No. 4

21.06.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 7502 of 2022
Sk. Habibur Rahaman
v.
The State of West Bengal & Ors.

Mr. Sanjib Seth
... for the petitioner.

Ms. Monjuli Chowdhury
Ms. Mekhla Sinha
... for the respondent no. 2 to 4.

Mr. Sarbananda Sanyal
Mr. Soumya Basu Ray Chowdhury
... for the respondent no. 6 & 7.

Mr. Ziaul Islam
Mr. Khaliq Rahman
... for the State respondents.

Learned advocate for the petitioner submits that the property in question which is a joint property of the petitioner and the private respondents have been used for making construction by the private respondents without obtaining any sanction plan from the Gram Panchayat.

It appears from the submissions made on behalf of the petitioner as well as the private respondents that there are allegations and counter allegations of unauthorized construction by both the parties.

A previous writ petition was filed by the private respondents alleging unauthorized construction being

made by the petitioner herein and as a counter blast the present writ petition has been filed by the petitioner alleging illegal construction by the private respondents.

The private respondents have relied upon a permission allegedly granted by the Maju Gram Panchayat in favour of Hafiza Khatun, the respondent no. 10 herein. Though, there is no date in the said permission to construct it has been mentioned that the said permission is valid till August 7, 2022 and decision was taken for granting permission on February 8, 2022.

Similar permission has been issued in favour of Ali Hafiz, the respondent no. 9 herein.

According to the petitioner the construction was made prior to obtaining the permission from the Gram Panchayat and the alleged construction is in place for the last six or seven years. The petitioner prays for demolition of the unauthorized construction.

After hearing the submissions made on behalf of the parties it appears that there are several disputed questions of facts involved in the instant writ petition which cannot be adjudicated by the writ Court.

In view of the above, the parties are relegated before the appropriate forum for redressal of their grievances, if so advised.

The Pradhan of Sealdanga Gram Panchayat is personally present in Court today in compliance of the direction passed by the Court on May 19, 2022. His personal appearance stands dispensed with.

Affidavit-of-service and the affidavit-in-opposition filed on behalf of the respondent nos. 9 to 12 be retained with the records.

Learned advocate appearing on behalf of the respondent no. 7 filed his Vakalatnama being filing No. A-10816 dated June 21, 2022. The department is directed to tag the Vakalatnama with the records of the present case.

As the writ petition is being disposed of and the petitioner is yet to file a reply to the opposition filed by the private respondents, the allegations made in the affidavit-in-opposition are deemed not to have been admitted by the petitioner.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)