

Item No. 31

24.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 7516 of 2022

Sk. Safikul Islam & Anr.
v.
The State of West Bengal & Ors.

Mr. Rafikul Isam Sardar
... for the petitioners.

Mr. Naba Kumar Das
Mr. Joydip Basu
... for the State.

The petitioners allege illegal and unauthorized construction at the instance of the respondent no. 8. The petitioners and the respondent no. 8 are siblings.

According to the petitioners, the property in question is a joint property and the private respondent is making construction without obtaining any sanction plan from the Gram Panchayat. The petitioners have annexed photographs to show that pacca construction was being raised by the respondent no. 8.

The learned advocate representing the State respondents has obtained instruction wherefrom it appears that after the order was passed in a proceeding under Section 144 Cr.P.C., the construction work has been stopped.

None appears on behalf of the respondent no. 8 despite service.

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

The petitioners allege that the representation filed before the Pradhan of the Gram Panchayat in April 2022 has not been considered till date.

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 Pradhan of Mundalika Gram Panchayat 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 petitioners, 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 petitioners and all points are left open to be decided by the aforesaid

respondent at the time of consideration of the representation of the petitioners.

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 petitioners are directed to forward a copy of the representation dated April 20, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

The instructions given by the Block Development Officer, Jangipara Development Block, Jangipara and the Officer-in-Charge, Jangipara Police Station be retained with the records.

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.)