

ML 163
25.07.2022
d.p.

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

W.P.A 9601 of 2021

**Radhakanta Sardar
-versus
The State of West Bengal & Ors.**

**Mr. Pankaj Halder,
Mr. Sanatan Panja,
Mr. Tapas Manna.
...For the Petitioner.**

**Mr. Manoj Malhotra,
Mr. Sandip Sarkar.
...For the State.**

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

None appears on behalf of the private respondents and the Panchayat authorities in spite of service.

The petitioner complains of illegal and unauthorized construction at the instance of the private respondents in the undivided land being Plot No. 1246, J.L. No. 64, Mouza-Dulalpur, District-South 24-Parganas.

The petitioner made a representation before the respondent authorities on 8th April, 2021 against such unauthorized construction and alleges that the same has not been taken up for consideration till date.

Though the postal receipt showing service of the writ petition upon the respondent authorities as well as private respondents is annexed but the track report showing delivery of the postal articles is missing. It cannot be ascertained as to whether the writ petition was at all served upon the respondents.

In view of the order that I propose to pass, none of the parties will be prejudiced, if the writ petition stands disposed of as follows.

The writ petition is accordingly disposed of by directing the respondent nos. 7 and 8 to consider and dispose of the representation made by the petitioner alleging illegal and unauthorized construction, 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 respondents are 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 respondents 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 8th April, 2021 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.

(Amrita Sinha, J.)