

**WPA 7241 of 2018**

**Smt. Rina Das Modak & Anr.  
Vs.  
The State of West Bengal & Ors.**

**Mr. Samrat Sen  
Mrs. Maheswari Sharma  
Mrs. Tulika Roy**  
...for the petitioner

**Mr. Uttiya Ray  
Mr. Arnab Mandal**  
...for the Respondent no. 5

**Mr. Sudip Ghosh Chowdhury**  
...for the respondent no. 3

The present writ petition pertains to erection of illegal construction by the private respondent, as alleged by the petitioners.

Mr. Samrat Sen, learned senior advocate representing the petitioners has drawn attention of this Court to order dated 25<sup>th</sup> November, 2014 passed by a coordinate Bench on a writ petition being WP 19009(W) of 2014, which was filed at the instance of the predecessor-in-interest of the present petitioners. Vide order dated 25<sup>th</sup> November, 2014, the coordinate Bench directed the competent authority of Baintika Bainchi Gram Panchayat to dispose of the complaint lodged by the predecessor-in-interest of the present petitioners relating to unauthorised construction made by the private respondent.

Today, the present writ petition is being considered which is also preferred on the identical ground of making unauthorised construction by the private respondent and

on query of this Court, it has been replied by the learned advocate representing the petitioners that within the statutory period, on violation of the previous order of the coordinate Bench dated 25<sup>th</sup> November, 2014, contempt application could not be taken out. Due to expiry of such statutory period for preferring contempt application, the present writ petition has been preferred by the wife and daughter of the petitioner in WP 19009 (W) of 2014 seeking adjudication by the concerned authority of said Baintika Bainchi Gram Panchayat on unauthorised construction made by the private respondent.

It is well-settled that for implementation of the order passed in a writ proceeding, subsequent writ petition can be preferred. Therefore, preferring of aforesaid previous writ petition by the predecessor-in-interest of the present petitioners and the order being passed on 25<sup>th</sup> November, 2014 by the coordinate Bench, shall not operate as bar in entertaining the present writ petition by this Court.

Considering the submission made on behalf of Baintika Bainchi Gram Panchayat, it appears that there is certain confusion with regard to making representation before the authority since the date as referred in the order dated 25<sup>th</sup> November, 2014 of the coordinate Bench as per record of the said panchayat authority is not tallying with the representation made by the petitioner previously.

Private respondent is also represented by Mr. Uttiya Ray, learned advocate.

Considering the aforesaid situation, this Court finds it apt to grant liberty to the petitioners to make comprehensive representation to said Baintika Bainchi Gram Panchayat being the respondent no. 2 within a period of fortnight from date.

If such representation is made by the petitioners within the aforesaid period, the respondent no. 3 shall take a decision on the said representation in accordance with law after granting opportunity of hearing to the petitioners and all other interested parties and to pass a reasoned order within a period of 8 (eight) weeks thereafter.

The order, if passed, by the concerned authority of Baintika Bainchi Gram Panchayat, shall be communicated to the petitioners as well as the private respondent within 1 (one) week thereafter.

With the aforesaid direction, the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

**(Saugata Bhattacharyya, J.)**