

Item No. 106(ML)

23.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 10347 of 2021

Sri Nikhilesh Manna
v.
The State of West Bengal & Ors.

Mr. Sanjib Seth
... for the petitioner.

None appears on behalf of the respondents despite service.

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

The petitioner alleges illegal and unauthorized construction by the respondent nos. 9 and 10. The submission of the petitioner is that the respondent nos. 9 and 10 are co-sharers of the property being LR Dag Nos. 433, 434, 435, 363, 364 within Mouza-Anantabati, J.L. No. 58, P.S.- Jagatballavpur, District-Howrah.

The private respondents are making construction without obtaining any sanctioned plan from the Gram Panchayat.

As it appears that the representation of the petitioner 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 nos. 6 & 7 to consider and dispose of the representation made by the petitioner, 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 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 a copy of the representation dated October 10, 2020 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.

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(Amrita Sinha, J.)