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30.08.2022
d.p.

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

W.P.A. 8990 of 2022

**Monohar Ghosh & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Samiran Mondal,
Mr. Abhinaba Dan.
...For the Petitioners.**

**Mr. Gausul Alam,
Mr. Atarul Hoque Mollah.
...For the State.**

**Mr. Soumik Ganguli.
...For the Respondent
Nos. 6 and 7.**

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

The petitioners allege illegal and unauthorized construction at the instance of the respondent Nos. 8 and 9.

It is the specific stand of the petitioners that the private respondents have made construction on the public road by encroaching the same.

On receipt of the complaint from the petitioners, the Panchayat authority issued a stop work notice.

The District Panchayat and Rural Development Officer, Bankura directed the Block Development

Officer as well as the Pradhan to take necessary steps in the matter.

The petitioners allege that despite repeated requests the Pradhan has not taken steps to consider the objection filed against such unauthorized construction.

Though the affidavit-of-service does not show that the copy of the writ petition has been served upon the respondent No.9 but as it appears that the representation filed by the petitioners is pending consideration at the end of the Pradhan, no useful purpose will be served by keeping the writ petition pending.

The private respondent Nos. 8 and 9 will also not be prejudiced in any manner, if the writ petition is disposed of by the following order.

The writ petition is accordingly disposed of by directing the respondent nos. 6 and 7 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 9th March, 2022 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.

(Amrita Sinha, J.)