

Item No. 74

26.07.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 11722 of 2022
Kuntal Pakhira
v.
The State of West Bengal & Ors.

Ms. Shebatee Datta
Ms. Babita Dey
... for the petitioner.

Mr. Narayan Chandra Bhattacharyya
Ms. Sujata Ghosh
... for the State respondents.

Ms. Manjuli Choudhury
Ms. Mekhla Sinha
... for the respondent nos. 5 to 7.

Mr. Himadri Kumar Mahata
Mr. Ziaul Haque
... for the respondent no. 10.

The petitioner alleges illegal and unauthorized construction of G+2 storied structure over the existing G+1 storied old structure on the Dag No. 376, Khatian No. 249, J.L. No. 81, within Mouza-Narikelbazar, Police Station-Shyampur, District-Howrah within the jurisdiction of Shyampur Gram Panchayat.

The petitioner submits that in response to the complaint lodged by the petitioner, the Shyampur Gram Panchayat issued a notice of hearing. At the first instance the private respondents were absent. A further notice for hearing was given and hearing was conducted on June 15, 2022.

It has been submitted that thereafter no steps have been taken by the Panchayat to deal with such unauthorized construction. The last legal representation demanding justice filed on behalf of the petitioner on June 17, 2022 has also remained unanswered.

Learned advocate representing the private respondents against whom the allegation of making unauthorized construction is being leveled, denies the allegation of the petitioner.

It has been submitted that the petitioner as well as the private respondents are co-owners of the said plot of land. The private respondents were only making repairing work of the old existing structure and no new construction has been made thereon.

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. 3 & 4 herein 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 June 17, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

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

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.)