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03.08.2022
d.p.

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

W.P.A. 13709 of 2021

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

**Mr. Lakshminath Bhattacharya.
...For the Petitioner.**

**Mr. Gausul Alam,
Md. Yusuf Ali.
...For the State.**

**Mr. Sounak Bhattacharyya,
Mr. Chandranath Sarkar,
Mr. Sounak Mondal.
...For the Private respondents.**

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

The petitioner alleges illegal and unauthorized construction at the instance of the respondent nos. 12 to 21 on the plot of land under Mouza Paschim Tetulberia, LR plot nos. 146, 147, 148 & 150, JL No 106, Bakultala Police Station, District South 24 Parganas.

It is the specific contention of the petitioner that construction is being made without obtaining any sanction from the Gram Panchayat.

In support of the aforesaid statement, the petitioner relies upon the information provided to the

petitioner under the Right to Information Act by the Pradhan of the Gram Panchayat in March 2021 that no permission/sanction of plan was granted by the Panchayat in favour of the private respondents.

The petitioner raised objection before the Gram Panchayat by a representation dated 15th February, 2021 and alleges that the same has not been taken up for consideration till date.

Learned advocate appearing for the private respondents submits, upon instructions that, the construction was made pursuant to the permission granted by the Learned Court below in the Civil Suit pending in between the parties.

The aforesaid contention of the private respondents has been disputed by the learned advocate appearing for the petitioner. It has been submitted that the permission to make construction was recalled by the Learned Court below.

Without going into the disputed questions of facts the writ petition is disposed of by directing the respondent nos. 9 and 10 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 15th February, 2021 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.)