

Item No. 21

29.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 16498 of 2021
Sri Basudeb Maitra & Anr.
v.
The State of West Bengl & Ors.

Mr. Sanjib Kumar Mukhopadhyay
Mr. Nargish Parveen
... for the petitioners.

Mr. Dyutiman Banerjee
... for the private respondent.

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

The petitioners are aggrieved by the inaction on the part of the Gram Panchayat for not sanctioning the building plan submitted before the Panchayat in April 2021.

The reason which the Panchayat has disclosed to the petitioners for not taking any steps in response to the plan submitted by them is that, a partition suit is pending in between the parties in respect of the selfsame plot of land.

The petitioners apprehend that it may take a considerable period of time for disposal of the partition suit and the petitioners ought not to wait for such a long

period of time for sanction of the plan submitted before the Panchayat.

Learned advocate representing the private respondent submits that a partition Suit being TS No. 106 of 2021 is pending in respect of the selfsame plot of land and order has been passed on December 2, 2021 directing the parties to maintain status quo with regard to the nature, character and construction of the Suit property till the disposal of the Suit.

It has been submitted that an appeal has been preferred challenging the said order dated December 2, 2021 being Misc. Appeal No. 6 of 2022 and the same is pending before the Learned District Judge, Hooghly.

It appears from the submissions made on behalf of the parties that the property in question is a joint property and each of the co-owners have equal share in every inch of the said property. The petitioners cannot claim to raise construction on a particular portion of the said joint property in the absence of specific order in the pending partition Suit.

It would, however, been appropriate for the Panchayat authority to intimate the petitioner, in writing, the reason for not sanctioning the plan proposal.

Since it has presently been disclosed before this Court that steps could not be taken by the Panchayat in

view of the pendency of the partition Suit, accordingly, no order can be passed in the present writ petition directing the Prodhan to sanction the plan proposal submitted by the petitioner.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)