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03.08.2022
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 17834 of 2021

**Gouranga Deb Naskar
-versus
The State of West Bengal & Ors.**

**Mr. Soumen Bhattacharjee,
Mr. Soumendu Saha.
...For the Petitioner.**

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

None appears either on behalf of the Panchayat or the private respondents.

The petitioner alleges illegal and unauthorized construction made by the respondent Nos. 4 and 5. The petitioner is the owner and possessor of 3.3 decimals of land under Mouza-Sikharbeli, J.L. No. 64, Khatian No. 2624, Dag No. 6148 under Police Station-Baruipur within Sikharbali 1 No. Gram Panchayat area.

It is the specific contention of the petitioner that the aforesaid respondents without obtaining any permission/sanction from the Panchayat started construction without leaving the mandatory side open spaces in the southern side of the land of the petitioner.

The petitioner raised objection before the Pradhan.

The petitioner filed a representation before the Pradhan of the Sikharbali Gram Panchayat and alleges that the same has not been considered till date.

In view of the order that I propose to pass, none of the parties will be prejudiced, if the writ petition is disposed of in the following manner.

The writ petition is accordingly disposed of by directing the respondent no. 2, Pradhan, Sikharbali 1 Gram Panchayet 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 23rd 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.)