

WPA 5151 of 2022

Sundar Mondal
Vs.
The State of W. B. & Ors.

Mr. Arjun Roy Mukherjee
Ms. Saheli Mukherjee ...for the petitioner.

Mr. Chandi Charan De
Ms. Chandana Ghosh ...for the State.

Affidavit of service filed by the petitioner is taken on record.

None appears for the private respondent herein, despite service.

Heard learned counsels for the parties.

The petitioner prays for a direction for consideration of his representation submitted before the concerned authority (annexure P-12 to the writ petition).

The petitioner filed a title suit before the Court of the Learned Civil Judge, Senior Division, Ghatal for a decree for partition and injunction against the private respondents and others. An order of injunction was granted to the petitioner in the said suit restraining the 1st defendant therein, being private respondent No.4 in the present writ petition, from raising any fresh construction in the suit property with a further observation that the said respondent would not be prevented from completing the construction already undertaken in terms of the site plan

in strict adherence thereto and without making any deviation from the sanctioned plan and also without claiming any equity for the same. The said defendant/respondent was directed to demolish the portion of the construction, as directed, at his own expense and restore the suit property to its original position. The said respondent submitted a certificate issued by the Executive Engineer, Midnapore Highway Division, PW (Roads) Directorate on 15th February 2021 recording that there was no objection on the part of the authority to the petitioner setting up his own land to be used for commercial purpose in accordance with the existing laws and rules. The defendant/respondent withheld a subsequent letter issued by the Superintending Engineer, South Western Highway Circle, PW (Roads) Directorate to the Executive Engineer Midnapore Highway Division on 22nd September, 2021 wherein the incumbent was requested to resubmit the application upon fulfilling certain conditions laid down in the said letter.

The petitioner submitted a representation before the concerned authority (annexure P-12 to the writ petition) alleging unauthorised construction being made by the private respondents pursuant to the order of injunction granted by the Civil Court and requesting necessary steps to be taken by the authority against such unauthorised/illegal act.

Learned counsel for the petitioner submits that the said representation has not been heeded to till date. Learned counsel prays for a direction upon the concerned authority to consider the representation at the earliest.

It is submitted on behalf of the State respondents that the 2nd respondent be directed to consider the representation in accordance with law.

In view of the above, the writ petition is disposed of directing the 2nd respondent to consider and dispose of the representation submitted by the petitioner (annexure P-12 to the writ petition) within two months from the date of communication of this order upon affording reasonable opportunity of hearing to all the interested parties including the petitioner and the private respondents, in accordance with law.

In disposing of the same, the authority shall consider all relevant facts that may be placed before the authority by the persons interested.

It is made clear that this Court has not gone into the merits of the case and the concerned authority shall be at liberty to deal with the representation submitted by the petitioner independently and without being influenced by any observation that may have been made in this order.

With the above directions the writ petition being WPA 5151 of 2022 is disposed of.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)