

19.04.2023
(S/L-24)
Ct.-24
(Susanta)

W.P.A. 6268 of 2023

Tapas Kumar Shit & Anr.
-Vs-
The State of West Bengal & Ors.

Mr. Amit Baran Dash,
Ms. Ankana Sarkar,
.... For the Petitioners.

Mr. Santi Das,
.... For the Respondent No.8.

Mr. Lalit Mohan Mahata,
Mr. Rudranil De,
.... For the State.

Mr. Koushik Chatterjee,
Mr. Nilanjan Adhikari,
For the Respondent nos. 3,4,5 & 6.

The petitioners complain of illegal and unauthorized construction at the behest of the respondent no.8.

The specific allegation is that construction is being made without maintaining any side open space.

Learned advocate representing the private respondent denies the allegation of the petitioners. It has been submitted that the construction in question is an old one and the same has been repaired after obtaining permission from the Municipality.

Learned advocate representing the Municipality admits that the petitioners' objection is pending consideration.

As it appears that the representation of the petitioners 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 no. 5, the Board of Councilors of Contai Municipality to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners within a period of three months from the date of 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 petitioners 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.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties

regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The learned advocate for the petitioners is directed to forward a copy of the representation dated February 24, 2023 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.)