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12.10.2023
Court No. 24
AGM

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

**WPA 7844 of 2019
With
CAN 1 of 2023
CAN 2 of 2023**

**Dhiman Chandra Mahata
-versus
The State of West Bengal & Ors.**

**Mr. Santu Nandy
...For the petitioner.**

The petitioner prays for recalling the order dated 24th January, 2023 dismissing the writ petition for default on account of non-appearance of the learned advocate representing the petitioner.

I have perused the application filed by the petitioner praying for restoration of the writ petition and the application praying for condonation of delay in filing the application for recalling.

Being satisfied with the reasons mentioned for non-appearance of the learned advocate on the day the matter was taken up for consideration by the Court, the order dated 24th January, 2023 stands recalled.

The writ petition is restored to its original file and number.

The applications being CAN 1 of 2023 and CAN 2 of 2023 are disposed of.

WPA 7844 of 2019

The petitioner is an employee of this Hon'ble Court. He alleges illegal and unauthorised construction at the behest of the Pradhan of the Gram Panchayat.

The petitioner has averred in the writ petition that the Pradhan of the Gram Panchayat along with local members of the Gram Panchayat submitted a proposal before the petitioner and other co-sharers of the land in question to sell the land in question for setting up permanent stage on the said land. The petitioner and the other co-sharers have accepted the proposal and received a sum of rupees three lakh on 5th November, 2016.

The petitioner and the co-sharers being members of the scheduled caste category are required to obtain permission for selling their property. As the permission was not granted, the property was not sold.

The Panchayat relying upon the understanding between the parties regarding sale of the land has already raised construction over the subject plot.

The petitioner seeks an order of demolition of such construction.

Upon hearing the submission made on behalf of the petitioner and upon perusal of the materials on record, it appears that the petitioner and the other co-sharers accepted money from the Pradhan of the Gram Panchayat on account of sale of the land in question. Though the petitioner contends that the sale did not

take place ultimately, but there is nothing on record to suggest as to whether such sale took place or not. The petitioner has admitted accepting money from the Pradhan for selling the said plot.

When an understanding was entered into by and between the petitioner and the Pradhan of the Gram Panchayat and money was paid by the Pradhan of the gram panchayat for purchase of the land and thereafter construction has been made, the same cannot be said to be an unauthorised one.

The dispute at this stage appears to be an absolute private dispute. There are several disputed questions of facts to be answered to adjudicate the issue. The right of the petitioner qua the land in question after acceptance of the proposed sale price, the stand of the respondents especially the Pradhan have to be adjudicated after taking evidence. The same cannot be adjudicated by the writ Court.

In view of the above, no relief can be granted to the petitioner in the instant case.

The writ petition fails and is hereby dismissed.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)