

06.12.2023
(M/L-161)
Ct.-24
(Susanta)

W.P.A. 13033 of 2022

Sk. Liyakat @ Sk. Liyakat Ali
-Vs-
The State of West Bengal & Ors.

Mr. Subhadip Paramanik,
Ms. Mousumi Arij, For the Petitioner.
Mr. Jahar Dutta,
Mr. Bipin Ghosh, For the State.

The petitioner claims to be co-owner of the property at Mouza Shankharipukur, J.L No.-38, R.S Plot No.516, R.S Khatian No. 256, corresponding to L.R. Plot No.-1464, L.R Khatinan No. 3528 and 3574 classified as Bastu under the Burdwan Municipality.

The petitioner submits that the private respondent being the other co-owner of the subject property is raising construction without obtaining any sanction plan.

Complaint was lodged before the Burdwan Municipality and on receipt of the said complaint; stop work notice was issued by the Municipality on 7th July 2022.

The petitioner complains that after issuance of the stop work notice no steps have been taken by the Municipality to deal with the unauthorized construction.

None represents the private respondent.

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

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

As it appears that the representation of the petitioner 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. 3 being the Board of Councillors, Burdwan Municipality 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 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 petitioner immediately thereafter.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

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 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 petitioner is directed to forward a copy of the representation dated 11th March, 2022 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.)