

Item No.244

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

04.10.2023
Ct-24

WPA 19268 of 2023
Aminul Islam Gazi

v.

The State of West Bengal & Ors.

Mr. Pankaj Halder
... for the petitioner.

Mr. S. Balial
... for the respondent no. 8.

Mr. Saunak Bhattacharyya
Mr. Abhirup Haldar
... for the respondent no. 9.

The petitioner alleges illegal and unauthorized construction of a boundary wall above the prescribed limit without any sanction at the behest of the private respondent.

The petitioner alleges that the objection filed against such unauthorized construction has not been taken up for consideration till date.

Learned advocate representing the private respondent denies the allegation of the petitioner.

Learned advocate representing the Gram Panchayat submits, upon instruction that, an inspection was conducted and it was observed that the land in question has been filled up without obtaining any permission from the Panchayat.

It has been submitted by the learned advocate appearing for the Panchayat that intimation has been

given to the District Magistrate/Collector, South 24 Parganas for taking necessary action in the matter.

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. 4, SDO, Baruipur 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 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 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.

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 petitioner.

Let a copy of the representation dated July 30, 2023 addressed to the BL & LRO be forwarded to the Sub-Divisional Officer for taking necessary action.

Instruction by the Pradhan, Moydah Gram Panchayat, Joynagar-II, South 24 Parganas dated September 1, 2023 be retained with the records.

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.

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(Amrita Sinha, J.)