

06.12.2023
(D/L-18)
Ct.-24
(Susanta)

W.P.A. 23786 of 2023

Santu Kumar Dey
-Vs-
The State of West Bengal & Ors.

Ms. Gopa Biswas,
Ms. Payel Shome,
Ms. Sampriti Saha,
Ms. Mohona Das,
.... For the Petitioner.

Mr. Indranil Roy,
Mr. Tapas Kumar Mandal,
.... For the State.
Mr. Animesh Paul,
.... For the Private Respondent.

The petitioner alleges illegal and unauthorized construction at the behest of the private respondent.

Complaint lodged against such unauthorized construction is pending consideration at the end of the Pradhan of the Gram Panchayat.

The specific allegation of the petitioner is that construction has been made over a water body.

Learned advocate representing the private respondent submits that the petitioner does not have any locus to file the present writ petition.

It has been submitted that the office of the Gram Panchayat is also constructed over the same plot of land as that of the private

respondent. If the construction of the private respondent has to be taken as unauthorized, then the office of the Gram Panchayat is also be considered as unauthorized construction.

As regards the submission of the private respondent with regard to the locus of the petitioner in filing the writ petition, the same cannot be appreciated by the Court in view of the fact that no citizen has any right to raise construction without a valid sanctioned plan contrary to the relevant Building Rules.

The private respondent has not been able to produce any document to show that the construction has been made in accordance with any plan sanctioned by the Gram Panchayat. The land in question where construction is alleged to be made appears to have been recorded as 'Pukur' in the Record of Rights.

Construction of the Panchayat office over the water body will certainly not be treated as deemed sanction for raising construction at the behest of the private respondent. Construction can be made only after obtaining sanction, if required in law and not prior thereto.

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.10 being the Pradhan, Bhagra Mulgram Panchayet 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 25th August, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The Fisheries Department is also directed to conduct a spot inspection upon prior notice to the parties to ascertain whether the land in question is water body and if it is so, whether the same has been filled up contrary to the Rules. Necessary remedial steps shall be taken if it is found that the water body has been filled up illegally.

The report filed by the Monteswar Police Station will 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.

(Amrita Sinha, J.)