

Item No. 17

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

11.10.2023
Ct-24

WPA 24438 of 2023
Sudhiranjan Biswas

v.

The State of West Bengal & Ors.

Ms. Pampa Dey (Dhabal)
... for the petitioner.

Mr. Subir Sanyal
Mr. Malay Bhattacharya
Mr. Subhrajyoti Ghosh
... for the respondent no. 8.

Mr. Santanu Kumar Mitra
Ms. Rama Halder
... for the State.

The petitioner is aggrieved by the act of the Pradhan of the Gram Panchayat in restraining him from carrying out with the construction work.

According to the petitioner the construction is being made in accordance with the plan sanctioned by the Panchayat.

It appears that there is a civil suit between the petitioner and the private respondent. In a civil revision petition being CO 3330 of 2023 (Amalendu Biswas & Anr. v. Sudhir Ranjan Biswas) the Court on September 20, 2023 passed order restraining the petitioner herein from raising any construction over the B-schedule property of the plaintiff.

The petitioner categorically submits that no construction is being made over the B-schedule property. The stop work notice has been issued without

inspection of the property but only relying upon the complaint lodged by the private respondent.

The private respondent submits that he does not have any objection to the construction being made by the petitioner provided the B-schedule property is not encroached/interfered with. Other allegation is that the construction that is being made by the petitioner is in deviation of the building rules. The mandatory side open spaces have not been maintained at the time of making construction.

On lodging such complaint before the Panchayat, stop work notice has been issued.

None represents the Panchayat.

Learned advocate representing the Block Development Officer submits, upon instruction that, a complaint which was received in the office of the said officer was merely forwarded to the Pradhan for taking necessary action.

It appears from the submissions made on behalf of all the parties that prior to passing the stop work notice, the Pradhan or any other authority did not cause a spot inspection to ascertain as to whether the allegation of raising construction in deviation of the building rules is correct or not.

The petitioner asserts that construction is being made in accordance with the plan sanctioned. The same is required to be verified by the Panchayat.

In view of the above, the Panchayat is directed to cause a spot inspection upon prior notice to the petitioner as well as the private respondent to ascertain

as to whether the construction is being made in accordance with the plan sanctioned or not.

In the event, it is found that the construction is being made in deviation of the sanctioned plan, then necessary consequential steps may be taken to deal with the same. On the other hand, if it transpires that construction is being made in accordance with the sanctioned plan, then the stop work notice shall immediately be revoked and the petitioner be permitted to continue and conclude the construction work.

Steps shall be taken in the matter at the earliest but positively within a period of four weeks from the date of communication of this order.

The writ petition stands disposed of.

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

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.)