

Sl.24
9.1.2023
Court. No. 19
sn

WPA 28951 of 2022

**Sudipta Das & Anr.
Vs.
The State of West Bengal & Ors.**

**Mr. Sandipan Banerjee
Mr. Sobhan Majumder
..for the petitioners**

**Mr. J.L. De
Mr. Rudranil De
..for the State**

**Mr. Malay Bhattacharyya
..for the respdts.7-11**

The petitioners allege that the respondent nos.7 to 11 have been raising a construction without permission from the Hamirhati Gram Panchayat. Such construction is allegedly on L.R. Dag No. 470 and 470/1272 of mouza Rampur corresponding to Khatian no.1164, J.L. No.65.

A complaint to that effect was filed before the Hamirhati Gram Panchayat.

Mr. Bhattacharyya, learned advocate for the respondent nos. 7 to 11 submits that no construction is going on. The said property was purchased with an existing go-down, covered by an old tin shed. It is further submitted that the said go down had been constructed long before, even when the provisions of Section 23 of the West Bengal Panchayat Act, 1973 was not applicable. Learned advocate asserts that no new construction is going on. Mr. Bhattacharyya

submits that the petitioners already filed a suit for declaration, partition and for permanent injunction. An order of status quo was passed in the said suit. The said suit was registered as Title Suit No. 3 of 2022 before the learned Civil Judge, Senior Division, Bishnupur. He further submits that on the self same cause of action an earlier suit had been filed, which was dismissed for default.

As the petitioners allege that the construction is going on in violation of the order of injunction, the remedy of the petitioners would be before the learned civil court in Title Suit No. 3 of 2022.

The panchayat authorities are only duty bound to ensure that no construction without any permission is carried on by the respondent nos. 7 to 11 over and above existing old tin shed go-down. If any unauthorized construction is detected, the petitioners will be at liberty to approach the authority for necessary action, strictly in accordance with law. The order of status quo passed by the competent civil court, shall be binding upon the parties to the suit.

This writ petition is disposed of.

There will be, however, no order as to costs.

All parties are directed to act server copy of this order.

(Shampa Sarkar, J.)