

Item No.259-ML

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

16.04.2024
Ct-24

WPA 909 of 2024

Prithwish Kumar Mandal
v.
The State of West Bengal & Ors.

Mr. Amritam Mandal
Ms. Ananya Chakraborty
Ms. Shipra Naskar
... for the petitioner.

Mr. Moniruzzaman
... for the State.

Mr. Binoy Kumar Das
... for the respondent no. 8.

The petitioner complains of illegal and unauthorized construction by filling up a water body and also on the embankment of a pond.

From the report of the Revenue Inspector prepared at the instance of the BL & LRO, Khejuri-II in compliance of the order passed by the learned Sub-Divisional Executive Magistrate, Contai, Purba Medinipur in Misc. Case no. 771 of 2022 under Section 144(2) Cr.P.C., it does not appear that the construction has been made over any water body.

Further allegation is that construction is being made without any sanction plan.

Representation has been filed before the Pradhan of the Gram Panchayat in June 2022; the same is alleged to be kept pending.

The petitioner relies upon the notification of the Land & Land Reforms and Refugee Relief & Rehabilitation Department, Land Policy Branch dated August 10, 2022 being Notification No. 3538-LP/5M-05/22 mentioning that minimum fifteen feet should be left unaltered from the age of the water body for allowing any conversion.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that the construction has been made in accordance with the plan sanctioned by the Gram Panchayat. Allegation of filling up of the water body has also been denied. It has been submitted that the Revenue Inspector's report clearly suggest that the construction has not been made over any water body.

Upon hearing the parties and upon perusal of the report filed by the Revenue Inspector, the allegation of the petitioner that construction was made over a water body, does not appear to be correct.

As regards the distance of fifteen feet to be left unaltered from the edge of the water body, it appears that the construction in question was made prior to the notification being published.

However, since it has been submitted that the construction is being made without any sanction plan and the private respondent is unable to readily produce the sanction plan before this Court, accordingly, the Court directs the Janka Gram Panchayat to decide the objection raised by the petitioner on June 23, 2022 in accordance with law after giving reasonable opportunity of hearing to all the necessary parties.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction and upon circulation of the report of spot inspection, hearing shall be held. It will be open for the parties to produce all documents in support of their respective stand at the time of hearing before the Panchayat.

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.

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 petitioners.

The Panchayat Authority will not decide the right, title and interest of the parties and will restrict the decision only with regard to unauthorized construction being made without a sanctioned plan.

Learned advocate appearing for the petitioners is directed to forward a copy of the representation dated 23rd June, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Report filed by the Officer-in-Charge, Khejuri Police Station signed on January 24, 2024 be kept 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.)