

ML 265
16.04.2024
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 1369 of 2024

**Saiful Biswas & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Sounak Bhattacharya,
Mr. Tirthankar Mukherjee,
Ms. Madhurima Sarkar,
Ms. Aishwarya Nanda,
Ms. Urmi Biswas,
Mr. Ranajit Bera.
...For the Petitioners.**

**Mr. Indranil Roy,
Mr. Tapas Kumar Mandal.
...For the State.**

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

None appears on behalf of the private respondent.

The petitioners complain of illegal and unauthorized construction without a sanction plan at the behest of the private respondent.

In an earlier round of litigation the petitioners approached this Court by filing a writ petition being WPA 8825 of 2023 which stood disposed of by this Court on 16th June, 2023 wherein allegation was made that the construction is being raised by encroaching upon a portion of the PWD land.

As per the direction passed by the Court, the Special Secretary, Public Works Department (Roads Wing) considered the issue and has come to a specific conclusion that the construction does not fall on any road belonging to the Public Works Department and the plot in question where the construction has been made is situated beside the PMGSY road.

After passing of the said order on 18th July, 2023, the allegation of unauthorized construction on the public land could not be substantiated.

The petitioners have presently come up with a fresh ground alleging unauthorized construction, i.e., the construction is being made without any sanction.

A representation appears to have been addressed to the Gram Panchayat in December 2023 which is alleged to be kept pending.

In view of the order that I propose to pass, none of the parties will be prejudiced if the writ petition is disposed of in the following manner.

As it appears that the representation of the petitioners 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, Panchayat Pradhan, Hat Khola Gram Panchayet to consider and dispose of the representation made by the petitioners, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the

petitioners, at the earliest, but positively within a period of three months from the date 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 petitioners, 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.

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 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 petitioner is directed to forward a copy of the representation dated 6th December, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Report by the Inspector-in-charge, Chapra Police Station signed on 30th January, 2024 be retained with the record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)