

16
09.05.2024
d.p.

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

**W.P.A. 3321 of 2024
IA No. Can 1 of 2024**

**Harendra Nath Mondal
-versus
The State of West Bengal & Ors.**

**Mr. Sudarshan Ghosh.
...For the Petitioner.**

**Mr. G.F. Hossain,
Ms. Varsha Roy.
...For the Respondent
Nos. 6 & 7.**

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

The petitioner complains of illegal and unauthorized construction over Dag No. 189/571 at the behest of the private respondents.

One of the private respondents, Prasanto Halder, expired on 6th April, 2024 during the pendency of the writ petition. An application has been filed by the petitioner seeking substitution of the deceased respondent no.6 on 24th April, 2024.

The said application being on time and in form stands allowed.

The date of death has, however, been recorded wrongly in the said application. Correct date of death is 6th April, 2024.

Copy of the Death Certificate of the respondent no.6 handed over by the learned advocate appearing for the private respondents be retained with the records.

Learned advocate appearing for the private respondents denies the allegation of unauthorized construction. It has been submitted that the construction in question is standing for a considerable period of time and no new construction has been made at present.

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. 4, Sahajadapur Gram 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, 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 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.

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 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 30th January, 2024 to the aforesaid respondent at the time of communicating the order of the Court.

The department is directed to substitute the name of the heirs of the deceased respondent no. 6 as appearing in paragraph 4 of CAN 1 of 2024. The department is also directed to rectify the date of death of the respondent no. 6 in paragraph 3 of the application.

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.)