

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

WPA 3281 of 2022

**Sariful Molla
-versus
The State of West Bengal & Ors.**

**Mr. Sabyasachi Chatterjee,
Mr. Sandipan Das,
Mr. Ankur Sharma,
Mr. Shubhankar Haldar,
Mr. Badrul Karim,
Mr. Indranil Roy,
Mr. Dipankar Das,
Mr. S. Ganguly,
Mr. Suman Sarkar,
Mr. Sanajit Roy.
...For the petitioner.**

**Ms. Noelle Banerjee,
Ms. Kalpita Paul.
...For State respondents.**

**Mr. Tapash Kr. Mondal.
...For South 24 Pgs. Zilla Parishad.**

**Mr. Sayani Roy Chowdhury,
Mr. Avirup Roy Sanyal.
...For respondent no. 11.**

The petitioner complains of illegal and unauthorized construction over a joint property at the instance of the private respondent. Allegation is that the construction is being made without obtaining any plan from the gram panchayat. The property is undemarcated and the private respondent does not have any right to raise construction thereon. Complaint was lodged before the respondent authorities in December, 2021 with reminder in January, 2022 but the same has not been disposed of till date.

Learned advocate representing the private respondent submits that a demarcated space out of the

undivided joint property was purchased by him. The construction has been made at the said demarcated area in accordance with the PMAY scheme after receiving fund from the Government. It has been submitted that the construction was over in the year 2020 after taking no objection from all the concerned authorities.

None represents the Pradhan of the gram panchayat. Affidavit of service is taken on record.

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 Daria Gram Panchayat, respondent no. 12 herein to consider and dispose of the representation strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of three months from the date of 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.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

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 petitioner is directed to forward a copy of the representations dated 23rd December, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

Learned advocate for the petitioner is directed to implead Daria Gram Panchayat as party respondent in the instant writ petition.

The writ petition stands disposed of.

Report filed by the Officer-in-Charge, Canning police station be retained with the records.

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

(Amrita Sinha, J.)