

ML 294
01.05.2024
d.p.

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

W.P.A 3826 of 2024

**Shyam Sundar Bharasa
-versus
The State of West Bengal & Ors.**

**Ms. Kakali Dutta.
...For the Petitioner.**

**Mr. Debnarayan Banerjee,
Mr. Md. Ahsanuzzaman.
...For the State.**

**Mr. Purnendu Das,
Mr. Meghanil Manna.
...For the Respondent No.7.**

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

The petitioner prays for consideration of the representation dated 15th September, 2023 alleging illegal and unauthorized construction at the behest of the private respondents.

Learned advocate appearing for the private respondents admits that the construction of the 1st floor was made without the sanction of the Panchayat and the construction of the ground floor was made prior to 1990.

The petitioner complains that the objection raised against such illegal construction has not been considered by the respondent authorities till date.

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. 2, Pradhan, Guabaria 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 15th September, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

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.)