

WPA 4799 OF 2024

Rabindranath Kamila
Vs.
The State of West Bengal & Ors.

Mr. Mrinal Kanti Ghosh Mr. Jayanta Dey.	... For the Petitioner
Ms. Piyali Sengupta Ms. Dipanwita Ganguly.	For the State
Mr. Soumen Dutta Mr. Subham Dutta.	...For the Respondent Nos. 8 & 9

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

Mr. Mrinal Kanti Ghosh, learned counsel appears for the petitioner.

Ms. Piyali Sengupta, learned counsel appears for the State respondents.

Mr. Soumen Dutta, learned counsel appears for the respondent nos. 8 and 9.

Rest of the respondents including the Panchayat and its Pradhan are not represented, despite notice. The law presumes that, they do not intend to oppose this writ petition.

The petitioner complains of an alleged unauthorized and illegal construction on the subject piece of land at the behest of the private respondent nos. 8 and 9. The

petitioner submits that, a representation dated **January 25, 2024, Annexure-P7 at page 32** to the writ petition was submitted before the Pradhan of the concerned Panchayat and the same has not been considered.

Mr. Soumen Dutta, learned counsel appearing for the private respondents submits that, the private respondents have obtained the sanctioned plan and in pursuance thereof the alleged construction has been done. The private respondents have also converted the character of the land into bastu.

Ms. Piyali Sengupta, learned counsel appearing for the State respondents submits a report dated **March 4, 2024**, issued under the seal and signature of the jurisdictional **Block Land & Land Reforms Officer**, the same is taken on record.

Considering the above, the Pradhan of the concerned Panchayat, upon issuing a prior notice to the petitioner and the private respondent nos. 8 and 9, is directed to cause a physical inspection of the alleged unauthorized and illegal construction and then after giving them an opportunity of hearing shall decide the said representation of the petitioner dated **January 25, 2024**, as referred to above, by passing a reasoned order in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the Pradhan of the concerned Panchayat positively within a period of **six**

weeks from the date of communication of this order. The Pradhan then shall communicate the reasoned order to the petitioner and the private respondents positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the rival claim of the parties. The petitioner and the private respondents shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the Pradhan of the concerned Panchayat but the same shall not travel beyond the scope of the said representation dated **January 25, 2024**.

In the event, the reasoned order confirms the alleged unauthorized and illegal construction, the Pradhan of the concerned Panchayat positively within a period of **seven days** from the date of the communication of the said reasoned order to the parties shall transmit the same and refer the matter before the jurisdictional **Sub Divisional Officer** in terms of **Sub Section (5) to Section 23** of the **West Bengal Panchayat Act, 1973**.

The jurisdictional **Sub Divisional Officer** then shall take all necessary and consequential steps to give an immediate effect to the said reasoned order expeditiously without any delay in accordance with law.

It is made clear that, this order shall not create any right or equity in favour of the petitioner, if the petitioner

is not eligible to receive his claim in terms of the said representation dated **January 25, 2024** in accordance with law.

The petitioner shall serve a copy of this order upon the jurisdictional **Block Development Officer** who shall ensure that, the direction of this Court is carried out and complied with by the Pradhan of the concerned Panchayat.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions this writ petition, **WPA 4799 of 2024** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)