

WPA 7872 OF 2024

Raju Haldar

Vs.

The State of West Bengal & Ors.

Mr. Saunak Bhattacharya
Mr. Chandra Nath Sarkar
Mr. Sounak Mandal.

... For the Petitioner

Mr. Nara Narayan Ganguly

...For the State
Respondents

Mr. Aziz Amin

.... For the Respondent
Nos. 11 & 12

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

Mr. Saunak Bhattacharya, learned counsel appears for the petitioner.

Mr. Nara Narayan Ganguly, learned State counsel appears for the State respondents.

Mr. Aziz Amin, learned counsel appears for the respondent nos. 11 and 12.

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. 11 & 12. The

petitioner submits that, a representation dated **February 29, 2024, Annexure-P7 at page 86** to the writ petition was submitted before the Pradhan of the concerned Panchayat and the same has not been considered. Referring to **Annexure-P6 at page 85** to the writ petition, the petitioner submits that, the Panchayat has already confirmed that, the construction alleged is without obtaining any sanctioned plan.

Learned counsel appearing for the private respondents submits that, the plot on which the construction is alleged is the plot of the private respondents being **plot no.38** whereas, the petitioner has disclosed alleging unauthorized construction in respect of another plot bearing **plot no.84**. He further denies that, any unauthorized construction is there. The construction made by the private respondents is duly authorized by the concerned Panchayat.

Considering the above, the Pradhan of the concerned Panchayat upon issuing a prior notice to the petitioner and the private respondent nos. 11 and 12 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 **February 29, 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 claims 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 **February 29, 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 **February 29, 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 7872 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.)