

08.07.2024
Item No. 38
Ct. no.2
b.r.

WPA 8511 of 2024

Chandra Sekhar Dey & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Salauddin Ahamed
Mr. Sandipan Maity
.... For the Petitioners
Mr. Rajat Dutta
.... For the State.
Mr. Sourav Chatterjee
.... For the Resp. no.5.
Mr. Kali Kinkan Dey
.... For the Private Resp. nos. 9 to 11.

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

Mr. Sandipan Maity, learned advocate appears for the petitioners.

Mr. Rajat Dutta, learned advocate appears for the State-respondents no. 1 to 4.

Mr. Sourav Chatterjee, learned advocate appears for the respondent no.5.

Mr. Kali Kinkar Dey, learned advocate appears for the private respondent nos. 9 to 11.

The petitioners alleged unauthorized and illegal construction on adjacent to the subject piece of land at

the behest of the private respondent nos. 9, 10 and 11. The petitioners submit that, there is no sanctioned plan for such construction. Referring to a representation dated **March 8, 2024 at page 43** to the writ petition Mr. Sandipan Maity, learned advocate appearing for the petitioners submit that, though the representation was made before the concerned Pradhan, the same has not yet been considered.

Today, when the matter has been taken up for consideration, learned counsel for the petitioners submit a communication dated **March 22, 2024** issued under the seal and signature of the Secretary-In-Charge of the concerned Panchayat opining that no plan was sanctioned for the alleged and illegal construction, the said report is taken on record.

After considering the submissions made on behalf of the parties and upon perusal of the records, the respondent no.7, the concerned Pradhan is directed upon issuing a prior hearing notice of at least **seven days** to the petitioners and the respondent nos. 9, 10 and 11, to make a physical inspection of the alleged unauthorized and illegal construction and then after giving them an opportunity of hearing shall decide the representation of the petitioners dated **March 8, 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 concerned Pradhan positively within a period of **six weeks** from the date of communication of this order. The Pradhan shall then communicate its reasoned order to the petitioners and the respondent nos. 9, 10 and 11 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 claims and rival claims of the parties. The parties 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 respondent no.7.

In the event the reasoned order goes in favour of the petitioners showing the alleged construction as illegal and wrongful, the Pradhan shall within **seven days** of communication of the said reasoned order shall forward the same and refer the matter to the jurisdictional Sub Divisional Officer in terms of **Sub-Section (5) to Section 23** of the **West Bengal Panchayat Act, 1973**. The Sub Divisional Officer then shall take all necessary and consequential steps to give effect to the said reasoned order expeditiously in accordance with law.

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

petitioners are not eligible to receive their claim strictly in accordance with law.

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

On the above terms this writ petition, **WPA 8511 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.)