

Court No. 2

08.7.2024

(Item No. 44)

(AB)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 10081 of 2024

Sri Bhimsen @ Bhim Prasad Jana
VS

The State of West Bengal & Ors.

Mr. Tarun Kumar Jana

Mr. Sounak Mondal

.... For the petitioner

Mr. Somnath Ganguly

Mr. Raja Ram Banerjee

.... For the State

Mr. Rabindra Nath Mahato

.... For respondent No. 5

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

Mr. Tarun Kumar Jana, learned advocate
appears for the petitioner.

Mr. Raja Ram Banerjee, learned advocate
appears for the State.

Mr. Rabindra Nath Mahato, learned advocate
appears through virtual mode for the private
respondent No. 5.

None appears for the Panchayat and its
Pradhan, despite notice. The law presumes that, they
do not intend to defend this writ petition.

The petitioner complains of an alleged illegal
and unauthorized construction on the subject piece of
land at the behest of the private respondent No. 5.
The petitioner submitted a representation dated
March 11, 2024, Annexure-P-2 at page 19 to the

writ petition before the Pradhan of the concerned Panchayat, the same has not yet been considered.

The private respondent submits that, he has obtained sanctioned plan and caused the construction. It is further submitted that, a partition suit has been filed by the petitioner before the jurisdictional Civil Court where an order of status quo is granted.

In view of the above, the Pradhan of the concerned Panchayat, the respondent No. 2 is directed upon issuing a prior hearing notice to the petitioner and the private respondent to cause a physical inspection of the subject alleged unauthorized construction and then after giving them an opportunity of hearing shall dispose of the said representation dated **March 11, 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 its 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 and the petitioner and the private respondent 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 not beyond the issue of an alleged unauthorized and illegal construction.

In the event, the reasoned order goes in favour of the petitioner confirming the 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 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 and carried out 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 10081 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.)