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05.02.2024
d.p.

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

W.P.A 9327 of 2022

**Shital Chandra Pal
-versus
The State of West Bengal & Ors.**

**Mr. Jyoti Prakash Chatterjee.
...For the Petitioner.**

**Mr. Anindya Lahiri,
Mr. Ashis Chakraborty.
...For the Respondent
Nos. 6, 7 and 8.**

**Ms. Mitali Mukherjee,
Mr. Mita Bag.
...For the State.**

Affidavit-of-service and the supplementary affidavit filed in Court today are taken on record.

The petitioner complains of illegal and unauthorized construction at the behest of the private respondents.

Reliance has been placed on the information obtained by the petitioner from the Panchayat mentioning that no plan has been sanctioned in favour of the private respondents for raising construction.

Complaint lodged against unauthorized construction is pending consideration.

Learned advocate appearing for the private respondents submits, upon instructions that, application was made for obtaining sanction before the Panchayat and the Panchayat as accepted the fees for sanction and issued receipt thereof.

It has been admitted by the parties that the land in question where the construction is raised has been partitioned in between the parties.

None represents the Panchayat.

In the absence of the Panchayat it will not be possible for the Court to adjudicate the issue conclusively.

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. 5, Pradhan, Badla 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 four 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.

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.

The petitioner is directed to forward a copy of the representation dated 17th May, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

All the parties would be permitted to rely upon all documents in support of their respective stand at the time of hearing.

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.)