

ML 1901
22.05.2024
d.p.

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

W.P.A. 9748 of 2023

**Prithwiraj Samanta
-versus
The State of West Bengal & Ors.**

**Mr. Partha Pratim Roy,
Mr.Vishal Mallick
...For the Petitioner.**

The petitioner complains of illegal and unauthorized construction. Objection filed against such unauthorized construction is alleged to be kept pending.

A report has been filed by the Block Development Officer, Pathar Pratima Development Block signed on 23rd May, 2023 which mentions that the Pradhan of the Gram Panchayat prima facie found that the construction is being made without obtaining necessary permission and clearances from the Gram Panchayat.

Notice was issued to the person responsible for making construction on 15th May, 2023 directing him to stop the illegal construction and to submit an explanation with supporting documents to justify the construction work.

It appears that the Gram Panchayat is yet to take a decision with regard to the construction that has been made.

None appears on behalf of the private respondent. There is no proof of service of the writ petition upon the respondent no. 8.

In view of the order that I propose to pass, none of the non-appearing respondents will be prejudiced if the writ petition is disposed of in the following manner.

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. 4, Digambarpur Gram Panchayat 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 three 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.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

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.

Learned advocate appearing for the petitioner is directed to forward a copy of the representation appearing at pages 19 and 20 of the writ petition to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Report of the Block Development Officer dated 23rd May, 2023 is taken on record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)