

ML 1916
22.05.2024
d.p.

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

W.P.A. 11912 of 2023

**Mahatab Mondal & Ors.
-versus
The State of West Bengal & Ors.**

**Ms. Manisha Mondal,
Mr. Arghya Kamal Das,
Mr. Aslam Parvej.
...For the Petitioners.**

**Mr. Ranjit Rajat.
...For the State.**

**Mr. Dipankar Mandal,
Mr. Abdul Aziz Mondal.
...For the Private Respondents.**

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

The petitioners and the private respondents are full blooded brothers. The petitioners allege illegal and unauthorized construction at the behest of the private respondents.

It has been submitted that the petitioner no.1 has expired during the pendency of the writ petition. It appears that the allegation is of unauthorized construction made by the private respondents and, as such, there is no impediment in proceeding with the writ petition by the petitioner nos. 2 and 3.

Learned advocate appearing on behalf of the private respondents denies the allegation of the petitioners. It has been submitted that construction has been made in accordance with the plan sanctioned by the Gram Panchayat.

As it appears that the representation of the petitioners 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. 3, to consider and dispose of the representation made by the petitioners, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioners, 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 petitioners, 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 petitioners and

all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

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 petitioners is directed to forward a copy of the representation dated 28th April, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

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.)