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Ct. No.24
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 13069 of 2023

Abdus Sakur Ali Khan
Vs.
State of West Bengal & Ors.

Mr. Kishore Mukherjee
Mr. Ahitagni Dey
... For the petitioner

Mr. Suman Ghosh
... For the State

Mr. Bharat Chandra Simai
Ms. Sanchayita Das
... For the private respondents

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

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

Reliance has been placed on a communication made by the Executive Assistant of the Gram Panchayat on 27th April, 2023 under the Right to Information Act, 2005 mentioning that no plan has been sanctioned in favour of the private respondents for raising construction.

The petitioner submits that as there is no plan for raising construction, accordingly, the construction made by the private respondents is liable to be demolished.

Learned advocate representing the private respondents produces a copy of the communication dated 15th May, 2023 issued by the Executive Assistant of the

Gram Panchayat mentioning that plan had been sanctioned in favour of the private respondents for raising construction and the fees for obtaining the sanctioned plan have also been paid.

Learned advocate representing the private respondents produces a plan and submits that the same was sanctioned in the year 2018 and construction has been made in accordance with the said plan.

The Court is at a fix as to how the same Executive Assistant could issue two separate communications on two diverse dates. The contents of the communications are at variance with each other. The Court does not have the machinery or expertise to ascertain the genuineness of the two communications.

Accordingly, the Court directs the Block Development Officer, Egra Block-I to ascertain the genuineness of the communications made by the Executive Assistant one on 27th April, 2023 and the other on 15th May, 2023.

If it appears that no plan has been sanctioned for raising the construction, then the Block Development Officer shall forward the necessary papers to the Sub-Divisional Officer for taking action to deal with the unauthorised construction in accordance with law.

The Block Development Officer shall afford reasonable opportunity of hearing to the petitioner, the private respondents and the Executive Assistant of the Gram Panchayat prior to passing a final order in the matter.

The decision shall be taken in the matter at the earliest but positively within a period of twelve weeks from the date of communication of this order.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Amrita Sinha, J.)