

Court No. 2  
**12.6.2024**  
(Item No. ML-57)  
(AB)

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

**W.P.A. 13543 of 2023**

Muslema Bibi  
VS  
The State of West Bengal & Ors.

Mr. Raj Kumar Sain  
.... For the petitioner  
Ms. Munmun Tewary  
Mr. Biswajit Das  
.... For the State  
Mr. Ratul Biswas  
Mr. Kausik Chowdhury  
Ms. Soumoyadipa Kanu  
.... For respondent Nos. 6 & 7

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

The petitioner complains of unauthorized and illegal construction at the subject premises at the behest of the private respondent Nos. 6 and 7.

Mr. Raj Kumar Sain, learned advocate appearing for the petitioner referring to the representation dated **May 30, 2023, Annexure P-3** at **page 27** to the writ petition submits that, though the complain was lodged before the Pradhan, respondent No. 5 herein, the representation has not yet received attention of the Pradhan of the Gram Panchayat.

Mr. Ratul Biswas, learned counsel appearing for respondent Nos. 6 and 7 submits a partition suit is pending before the jurisdictional Civil Court between the co-sharer of the subject property. He further submits that, one application has been filed seeking

sanction of building plan for construction at the subject premises but the same has also not been addressed by the Pradhan.

Ms. Munmun Tewary, learned State counsel appears for respondent Nos. 1 to 4.

Considering the submissions made on behalf of the parties and on perusal of the materials on record, to sub-serve justice, the respondent No. 5 is directed upon issuing a prior hearing notice of at least seven days to the petitioner and the respondent Nos. 6 and 7 to decide the said representation dated **May 30, 2023** as referred to above upon granting them an opportunity of hearing and by passing a reasoned decision in accordance with law.

The entire exercise as directed above shall be carried out completed by the respondent No. 5 positively within a period of **six weeks** from the date of communication of this order. The respondent No. 5 then shall communicate its reasoned order to the petitioner and the respondent Nos. 6 and 7 within a further period of **two weeks** from the date of the reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the submissions and rival submissions of the parties recorded above. The parties shall be at liberty to urge whatever points they wish to urge before the respondent No. 5 by relying

upon whatever records and documents they wish to rely upon.

In the event, the reasoned order shows there is an unauthorized and illegal construction at the subject premises then the Pradhan shall immediately within three days from the date of the said reasoned order to be communicated to the parties shall refer the matter before the respondent No. 4 in terms of **Sub-section 5 to Section 23** of the **West Bengal Panchayat Act, 1973** and the respondent No. 4 shall then take all necessary and consequential steps in accordance with law within a period of **ten weeks** from the date of receipt of reference from the Pradhan.

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 strictly in accordance with law.

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 **W.P.A 13543 of 2023** stands **disposed of**, without any order as to costs.

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

**(Aniruddha Roy, J.)**