

21.06.2024
Ct. No. 2
Sl. No. 15
tbsr

WPA 15568 of 2024

**Sonamoni Mondal
Vs.
The State of West Bengal & Ors.**

Mr. Sandip Ghosh
Mr. Partha Sarkar
....for the petitioner

Mr. Saibal Acharya
Ms. Molly Saha
....for the State

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

Mr. Sandip Ghosh, learned counsel appears for the petitioner.

Mr. Saibal Acharya, learned counsel appears for the respondent nos. 1 & 2.

The rest of the respondents including the Panchayat and the Pradhan are not represented, despite notice. The law presumes that they do not intend to oppose this writ petition.

The petitioner alleges unauthorized and illegal construction on the subject piece of land. The petitioner alleges that the piece of land is a Sali land and no construction is permitted thereupon. The alleged construction is relating to a boundary wall on the subject piece of land. Referring to a representation dated **May 6, 2024 at page 45** to the writ petition,

learned counsel for the petitioner submits that though the representation was made before the Pradhan, the same has not been considered.

Considering the submissions made on behalf of the parties and upon perusal of the materials on record, the respondent no. 4, the concerned Pradhan is directed to make a physical inspection of the alleged construction in presence of the petitioner and the private respondent no. 5 and then after giving them an opportunity of hearing shall decide the said representation dated **May 6, 2024** as referred above by passing a reasoned order in accordance with law.

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

It is made clear that this Court has not gone into the merits of claim of petitioner with regard to the alleged unauthorized and illegal construction and the petitioner and respondent no. 5 shall be at liberty to urge whatever points they wish to urge before the Pradhan by relying upon whatever records and documents they wish to rely upon but the same shall

not travel beyond the allegations of illegal and unauthorized construction of the boundary wall.

In the event, the reasoned order goes in favour of the petitioner that the alleged construction is illegal and unauthorized, the Pradhan shall immediately forward, and refer the matter along with a copy of the reasoned order before the jurisdictional Sub-Divisional Officer in terms of **Sub-Section (5) of Section 23** of the **West Bengal Panchayat Act 1973**.

The jurisdictional Sub-Divisional Officer then shall take all necessary and consequential steps to give immediate effect to the said reasoned order expeditiously in accordance with law.

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 in terms of his representation dated **May 6, 2024**, 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.

The petitioner shall serve a copy of the writ petition along with a copy of today's order upon the jurisdictional Block Development Officer who shall ensure that the direction of this Court is carried out by the concerned Pradhan.

Learned State counsel places a written instruction dated **June 20, 2024** issued under the seal and signature of the Officer-in-Charge Kolkata Leather Complex Police Station, the same is taken on record.

With the above observations and directions, this writ petition, **WPA 15568 of 2024** 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.)