

Court No. 2
14.6.2024
(Item No. ML-72)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 14223 of 2023

Rabindra Kumar Chanda
VS
The State of West Bengal & Ors.

Mr. Vivekananda Bose
Mr. Soham De Dhara
Mr. Ratikanta Pal
Mr. A. Karim
.... For the petitioner
Mr. Wasim Ahmed
Sk. Md. Masud
.... For the State
Mr. Vijay Agarwal
... for respondent Nos. 11 to 13

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

The petitioner complains of alleged
unauthorized and illegal construction at a peace and
parcel of land more fully described in **sub-paragraph**
(a) to paragraph 3 to the writ petition, at the behest
of the private respondent Nos. 11 to 13.

Mr. Vivekananda Bose, learned counsel
appears for the petitioner.

Mr. Wasim Ahmed, learned State counsel
appears for respondent Nos. 1 to 5.

Mr. Vijay Agarwal, learned advocate appears
for the private respondent Nos. 11 to 13.

The concerned Gram Panchayat and its
Pradhan are not represented, despite notice. The
reasonable presumption in law is that they do not
intend to defend the writ petition.

Learned counsel for the petitioner submits that, previously a partition suit was filed by the petitioner being **T.S. No. 16 of 2023** before the jurisdictional Civil Court in relation with the subject piece of land. However, learned counsel submits that, subsequently the said partition suit was withdrawn on **May 15, 2023**. The petitioner made series of representations before the Pradhan of the concerned Panchayat complaining of the said alleged unauthorized and illegal construction *de hors* the sanction plan, the last of such representation was made at **page 72** to the writ petition.

The said representation of the petitioner has not yet received the attention of the Pradhan.

Mr. Vijay Agarwal, learned advocate appearing for the private respondents submits that, the construction has been duly carried out in strict compliance of the sanctioned plan obtained from the Panchayat.

Considering the submissions made on behalf of the parties and upon perusal of the materials on record, the respondent No. 4 is directed to redress the grievance of the petitioner in the manner as directed hereinafter.

The concerned Pradhan shall cause physical enquiry of the subject construction alleged to be illegal and unauthorized by the petitioner on the subject piece of land as described in **paragraph 3(a)** to

the writ petition upon prior notice to the petitioner and the private respondents on a fixed date and time. After causing the said physical enquiry the Pradhan shall submit a detailed report in writing under his seal and signature before the respondent No. 4 disclosing all the relevant materials in support of his finding.

This exercise shall be carried out and completed by the concerned Pradhan, the respondent No. 7 herein, positively within a period of **three weeks** from the date of communication of this order including submissions of his report before the respondent No. 4.

If any unauthorized or illegal construction is detected on the subject piece of land, the report to be submitted by the Pradhan before the respondent No. 4 shall be treated as a reference from the Pradhan within the meaning of **Sub-section 5** to **Section 23** of the **West Bengal Panchayat Act, 1973** and the respondent No. 4 shall take all necessary and consequential steps immediately strictly in accordance with law to redress the grievance of the petitioner completely. This exercise shall be carried out by the respondent No. 4 positively within a period of **eight weeks** from the date of receiving the reference from the Pradhan in terms of **Sub-section 5** to **Section 23** of the Act.

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 14223 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.)