

19.06.2024
Ct. No. 2
Sl. No. 37
tbsr

WPA 15374 of 2024

**Kazi Firoja Begum & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Sukanta Chakraborty
Ms. Salma Sultana Shah
Mr. Zuber Ahmed
Ms. Shena Sarkar

....for the petitioners

Ms. Sabnam De Bardhan

....for the State

Mr. Samim Ahmmed
Mr. Aniruddha Singh
Md. Hazimuddin Siddique
Mr. Gulsanwara Pervin

....for the respondent nos. 7 & 8

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

Aniruddha Singh, learned counsel appears for
the respondent nos. 7 & 8.

Ms. Sabnam De Bardhan, learned state counsel
appears for respondent no. 5.

None appears for the rest of the respondents
including the concerned Panchayat and its Pradhan,
despite notice. The reasonable presumption in law is
that they do not intend to defend this writ petition.

The petitioners complain of an unauthorized and
illegal construction at the subject piece of land at the
behest of private respondent nos. 7 & 8. The petitioners

contend that the nature and character of land is doba and Sali. Referring to the representation dated **June 10, 2024, Annexure P-11 at page 57** to the writ petition, learned counsel to the petitioners submits that though the complain was lodged before the Pradhan of the concerned Panchayat but the same has not yet received any attention.

Learned counsel for the private respondent nos. 7 & 8 submits that a boundary wall has been constructed and the construction is not illegal and unauthorized and is permitted under the relevant rules.

Learned counsel for the State submits a report dated **June 18, 2024** issued under the seal and signature of the Officer-in-Charge, Chanditala Police Station, Hooghly, the same is taken on record. The police report shows that there has been a construction without sanctioned plan.

Disputing the submissions made on behalf of the private respondents, learned counsel for the petitioners draws attention of this Court to the pictures at page 44 to 50, showing that several illegal constructions are in progress in addition to the said alleged boundary wall.

Considering the rival contentions of the parties and upon perusal of the materials on record the respondent no. 6, the Pradhan is directed upon issuing a prior hearing notice of at least 7 days to the petitioners

and the respondent nos. 7 & 8 to hold a physical enquiry of the alleged illegal and unauthorized construction on the piece of land and then after giving them an opportunity of hearing shall decide the representation of the petitioners dated **June 10, 2024** as referred to above by passing a reasoned order.

The entire exercise as directed above shall be carried out and completed by the Pradhan positively within a period of **six weeks** from the date of communicate of this order. The Pradhan then shall communicate its reasoned order to the petitioners and the respondent nos. 7 & 8 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 the rival contentions of the parties as recorded above.

The disputes, if any, between the co-sharers of the land shall not be the subject matter before the Pradhan, the Pradhan shall only consider whether the constructions alleged are strictly in terms of the sanctioned plan or in deviation thereto or in absence of any sanctioned plan. The petitioners and the respondent nos. 7 & 8 shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the Pradhan

but the same shall not travel beyond the scope of alleged illegal and unauthorized construction.

In the event, the reasoned order shows there is illegal and unauthorized construction, the Pradhan immediately shall communicate the same and refer the matter before the respondent no. 3 in terms of **Sub-Section (5) to Section 23 of the West Bengal Panchayat Act, 1973**, positively within a period of **one week** from the date of communication of the reasoned order to the parties as directed above.

The respondent no. 3 shall then take all necessary and consequential steps to give effect to the said reasoned order at the earliest strictly in accordance with law.

It is made clear that this order shall not create any right or equity in favour of the petitioners if the petitioners are not eligible to receive their 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.

The petitioners shall serve a copy of this order upon the respondent no. 3 to enable it to ensure that the direction upon the Pradhan is carried out as directed herein.

With the above directions and observations, this writ petition **WPA 15374 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.)