

Court No. 2
20.6.2024
(Item No. ML-88)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 14736 of 2023

Manas Kumar Sasmal
VS
The State of West Bengal & Ors.

Mr. Niladri Sekhar Ghosh
Ms. Sompurna Chatterjee
Mr. Sourav Mondal
Ms. Labani Sikder
.... For the petitioner
Mr. Malay Singh
Ms. Neelam Singh
.... For the State

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

Mr. Niladri Sekhar Ghosh, learned advocate appears for the petitioner.

Mr. Malay Singh, learned State counsel appears for respondent Nos. 1 to 3, 5 and 6.

Rest of the respondents are not represented including the Pradhan of the Gram Panchayat, despite notice. The law presumes the non-appearing respondents do not intend to defend this writ petition.

The petitioner complains of an alleged unauthorized and illegal construction at the behest of the private respondent No. 4 on the Panchayat road itself. He submits that, by virtue of the said alleged illegal construction his ingress and egress to his property is being invaded. The petitioner submitted a

representation dated **July 28, 2021** at **page 16** to the writ petition before the Pradhan of the concerned Panchayat but the same has not yet been decided.

Learned State counsel has pointed out that the representation available at **page 16** to the writ petition is not the representation submitted by the writ petitioner but somebody else, may be his brother.

Considering the submissions of the parties and upon perusal of the materials on record, to sub-serve justice, the petitioner shall be at liberty to submit a representation within **seven days** from date before the respondent No. 4, the Pradhan of the Panchayat.

In the event, such representation is submitted, the Pradhan of the Panchayat upon issuing a prior hearing notice of at least seven days to the petitioner and the respondent No. 7 shall decide the said representation of the petitioner by making the necessary physical inspection of the alleged unauthorized construction upon notice to the petitioner and the respondent No. 7 and then after granting them an opportunity of hearing by passing a reasoned order in accordance with law.

The entire exercise as directed above shall be carried out by the Pradhan positively within a period of **six weeks** from the date of receiving the said representation from the petitioner. The Pradhan then

communicate the reasoned order to the petitioner and the respondent No. 7 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 writ petition.

In the event, the reasoned order goes in favour of the fact that there is an unauthorized and illegal construction encroaching the Panchayat road at the behest of the respondent No. 7 or otherwise then the Pradhan shall immediately within a period of **seven days** from the date of the said reasoned order to be communicate to the parties shall refer the matter before the respondent No. 5 in terms of **Sub-section 5** to **Section 23** of the **West Bengal Panchayat Act, 1973**.

The respondent No. 5 shall then take all necessary and consequential steps to give effect to the said reasoned order expeditiously and without any delay strictly in accordance with law.

It is made clear that, this order shall not create any right or equity in favour of the petitioner, in the event, the petitioner is not eligible to receive his claim in respect of the allegation of unauthorized and illegal construction as alleged in this writ petition 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 today's order along with a writ petition upon the respondent No. 5 who shall ensure the compliance of the direction of this Court by the Pradhan.

On the above terms, this writ petition **W.P.A 14736 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.)