

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE**

WPA 15350 of 2023

**Subal Sardar @ Subal Chandra Sardar
Vs.
The State of West Bengal & Ors.**

Mr. Zeeshanuz Zaman

... For the Petitioner.

Mr. Md. Mansoor Alam

... For the State.

1. Learned counsel, appearing for the writ petitioner, is present.

2. State is also represented by learned counsel.

3. Despite service effected upon the private respondents they do not appear at the time of hearing of the case. Affidavit-of-Service is filed today before this court. Let the same be kept with the record.

4. It is submitted at the behest of the petitioner that he purchased 8 decimals of land in Plot No. 498 and 10 decimals of land in Plot No. 490 which are situated under Mouza Uttar Arunagar and his name has been duly recorded in present Record of Rights. Private respondents have allegedly constructed illegal structure on the plot no. 499 situated under Mouza-77 No. Uttar Arunnagar, P.S. Joynagar within District-South 24-Parganas.

5. It is said by the learned Counsel of the petitioner that the private respondents although do not have any right, title, interest over the said plot of lands allegedly constructed pucca structure on Plot No. 499 without having any plan sanctioned from the concerned Panchayat Authority.

6. It is also submitted by learned counsel that the classification of the plot in question is recorded as “Shali” and it has not yet been converted to “Bastu” land and no permission for conversion has been accorded till date. So, the private respondents are violating the laws by continuing the illegal pucca construction over the land in question on which they have no title or interest.

7. It is further submitted that the petitioner ventilated his grievances before the appropriate authority and had made a representation before the Prodhan, Chaltaberia Gram Panchayat/ Respondent No.7 on 22.05.2023 but no step has yet been taken by the authority concerned. The copy of that representation is annexed at page no.29 (Annexure “P-3”) in this writ petition.

8. The petitioner also made representations before the Respondent No.4/ the Block Development Officer, Joynagar -1, Respondent No.3/the Sub Divisional Officer-Baruipur as well as also lodged complaint before the Respondent No.6 /the Inspector in charge , Joynagar Police Station and the said applications are annexed as pages nos 31 to 36 of the writ application. As no step has been taken by the authorities and finding no other alternative, the writ petitioner filed this application before this Court with a prayer for getting appropriate relief as stated in the petition.

9. At the time of hearing, it is submitted by learned counsel for the petitioner that the service has already been effected upon all the parties and filed Affidavit-of-Service. Let the same be kept with the record.

10. Learned counsel, appearing on behalf of the State, has drawn attention of the Court about a report dated 06-07-2023 submitted by the Respondent No.4. From paragraphs 5 and 6 of that report, it appears

that as per report submitted by the concerned Gram Panchayat the alleged house was constructed after being sanctioned and made under the Government Scheme namely P.M.A.Y. in the year 2019/20 in the name of the son of the private respondent and as that house was constructed under Government scheme, no separate plan is required to be sanctioned from the Gram Panchayat. It further appears from the said report that the petitioner and the private respondent both have made their houses on Plot Nos. 498 and 499 and character of the land are recorded as “Shali”

11. It appears that the writ petitioner has already submitted a representation dated 22-05-2023 before the Pradhan, Chaltaberia Gram Panchayat, PS-Joynagar, District-South 24-Parganas as annexed as ‘Annexure P3’ of this application.

12. Since the respondent no.7/ the Pradhan, Chaltaberia Gram Panchayat has already submitted report before the Respondent No.4 so the said respondent no. 7 is hereby directed to dispose the representation made on behalf of the writ petitioner dated 22-05-2023 as annexed with this writ application (Annexure “P-3”) within one month from the date of communication of this order under the provision of law.

13. The respondent no.7 is further directed that the opportunity of being heard should be given to all the necessary parties before passing any order in connection with the representation made by the petitioner.

14. The aforesaid respondent shall restrict the consideration of the representations of the petitioner with regard to construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

- 15.** The respondent no. 7 is also directed to pass a reasoned order and communicate the same passed by it over the representations made by the petitioner to the parties concerned immediately thereafter.
- 16.** Let a copy of this order be communicated to the respondent no.7/ the Prodhan, Chaltaberia Gram Panchayet along with a copy of annexure 'P-3'.
- 17.** All parties will be at liberty to rely upon documents in support of their stand at the time of hearing before the authority.
- 18.** WPA No. 15350 (W) of 2023, stands disposed of.
- 19.** Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Prasenjit Biswas, J.)