

Court No. 2
04.7.2024
(Item No. 11)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 16361 of 2024

Sri Subhash Samanta & Ors.
VS
The State of West Bengal & Ors.

Ms. Ujani Pal (Samanta)
.... For the petitioner
Mr. Sanjib Das
.... For the respondent
Nos. 1 to 3.

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

Ms. Ujani Pal (Samanta), learned advocate appears for the petitioner.

Mr. Sanjib Das, learned State advocate appears for the respondent nos. 1 to 3. He files a police report ***dated July 3, 2024***, issued under the seal and signature of the ***Officer-in-Charge, Khanakul Police Station***, the same is taken on record.

The rest of the respondents are not represented, despite notice. The law presumes that, they do not intend to defend this writ petition.

The petitioners complain of an alleged illegal and unauthorized construction on the subject piece of land at the behest of the private respondent Nos. 5 to 11. The petitioners had submitted a representation dated ***March 8, 2024, Annexure-P-3 at page 29*** to

the writ petition before the Pradhan of the concerned Panchayat, the same has not been considered.

The learned advocate appearing for the petitioners referring to an order dated **March 15, 2024** passed by the jurisdictional Civil Court in **Title Suit No. 26 of 2024** at **page 35** to the writ petition submits that, a partition suit is pending in which an order of status quo has been passed. She submits that in violation of the said interim order the private respondent Nos. 5 to 11 are changing the nature and character of the land.

In view of the above the Pradhan of the concerned Panchayat is directed upon issuing a prior notice on the petitioners and the private respondents shall cause a physical inspection of the alleged unauthorized and illegal construction and then after giving them an opportunity of hearing shall decide the said representation dated **March 8, 2024** in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the Pradhan of the concerned Panchayat positively within a period of **six weeks** from the date of communication of this order. The Pradhan then shall communicate its reasoned order to the petitioners and the private respondents 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 claim of the petitioners mentioned in the said representation. The petitioners and the private respondents 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 of the concerned Panchayat but the same shall not travel beyond the scope of the alleged unauthorized and illegal construction.

In the event, the reasoned order confirms the alleged unauthorized and illegal construction, the Pradhan of the concerned Panchayat positively within a period of **seven days** from the date of the communication of the said reasoned order to the parties shall transmit the same and refer the matter before the jurisdictional **Sub Divisional Officer** in terms of **Sub Section (5) to Section 23** of the **West Bengal Panchayat Act, 1973**.

The jurisdictional **Sub Divisional Officer** then shall take all necessary and consequential steps to give an immediate effect to the said reasoned order expeditiously without any delay, 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 in

terms of his representation with regard to the alleged unauthorized and illegal construction.

The petitioners shall serve a copy of this order upon the jurisdictional **Block Development Officer** who shall ensure that, the direction of this Court is carried out and complied with by the Pradhan of the concerned Panchayat.

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, **WPA 16361 of 2024** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)