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27.02.2024
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 15491 of 2023

**Sukumar Sarkar
-versus
The State of West Bengal & Ors.**

**Mr. Nilratan Banerjee,
Mr. Arijit Dey.
...For the Petitioner.**

**Mr. Amal Kumar Sen, AGP
Mr. Jaladhi Das.
...For the State.**

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

None represents either the Panchayat or the school authority.

The petitioner complains of illegal and unauthorized construction at the behest of the respondent no. 11 by encroaching the public road.

The petitioner has annexed photographs to show that the width of the road has been reduced considerably on account of the construction made by the school. The road in question has been submitted to have been renovated under the scheme of the State Government.

Objection filed before the Gram Panchayat is pending consideration for a considerable period of time.

In the absence of all the respondents, it will not be possible for the Court to decide the issue conclusively.

In view of the order that I propose to pass, none of the non appearing respondents will be prejudiced if the writ petition is disposed of in the following manner.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no. 10, Pradhan, Khanakul-II Gram Panchayat to consider and dispose of the representation made by the petitioner, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioner, at the earliest, but positively within a period of three months from the date communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties, including the petitioner, immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The Panchayat Authority will not decide the right, title and interest of the parties and will restrict the decision only with regard to unauthorized construction being made without a sanctioned plan.

Learned advocate appearing for the petitioner is directed to forward a copy of the legal representation dated 15th March, 2019 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)