

21-02-2024
Item No.41
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.15566 of 2023
Tutul Majila
-vs-
The State of West Bengal & Ors.

Mr. Mrinal Kanti Ghosh
Mr. Chandra Nath Sarkar ...for the petitioner

Mr. Ansar Mondal
Ms. Arpita Mondal ...for the State

Mr. Falguni Majhi ...for respondents no.6-8

Mr. Uttiya Ray
Mr. Arnab Mondal ...for respondents no.12-14

The petitioner raises an allegation of illegal and unauthorised construction at the behest of the private respondents over a plot of land which falls within the Rayan-I Gram Panchayat.

The Burdwan Development Authority considered the issue of unauthorised construction and was of the opinion that as the construction fell within the Gram Panchayat area, accordingly, the Gram Panchayat concerned ought to take steps in the matter.

It is submitted on behalf of the private respondents that there has been no unauthorised construction as alleged or at all. The private respondents have filed a reply to the show-cause notice issued by the Burdwan Development Authority which is pending consideration since 2021.

As it appears that the dispute is to be adjudicated by the Gram Panchayat, accordingly, the ninth respondent is directed to consider the petitioner's issue alleging unauthorised construction, upon giving

reasonable opportunity of hearing to all the necessary parties to place their contention. The parties will be entitled to rely upon necessary documents in support of their stand at the time of hearing.

Prior to hearing the matter a spot inspection shall be conducted to ascertain the exact nature and extent of the alleged unauthorised construction. The report of spot inspection shall be circulated amongst the parties. The Gram Panchayat shall then pass a reasoned decision in the matter at the earliest, but positively within eight weeks from the date of communication of this order and communicate it to all the parties.

The Gram Panchayat will not be swayed by the finding of the Burdwan Development Authority and shall decide the issue afresh after conducting the spot inspection and after opportunity of hearing being granted to the parties.

If it ultimately transpires that there is illegal and unauthorised construction, then necessary remedial steps shall be taken forthwith.

WPA No.15566 of 2023 is thus disposed of.

Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

