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05.02.2024
d.p.

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

W.P.A 15631 of 2023

**Suman Krishna Sinha & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Ramashis Mukherjee,
Ms. Munmun Mondal.
...For the Petitioners.**

**Mr. B.P. Mondal,
Mr. Sukanta Mondal,
Mr. S.K. Kundu.
...For the Private respondents.**

**Mr. Kaustav Chatterjee.
...For the State.**

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

The petitioners complain of illegal and unauthorized construction over a portion of the water body at the behest of the private respondents.

Learned advocate appearing for the private respondents denies the allegation of the petitioners. It has been submitted that both the parties are co-sharers in respect of the subject water body. Suit and counter suit filed by the parties are pending consideration before the learned Court below. Allegation of unauthorized construction has been denied.

None represents the Panchayat.

In the absence of the Panchayat, it will not be possible for the Court to adjudicate the issue conclusively.

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 Garhkamalpore Gram Panchayat to consider and dispose of the representation made by the petitioners, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioners, at the earliest, but positively within a period of four 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 petitioners, 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

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.

The petitioners are directed to forward a copy of the representation dated 4th May, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

Report filed by the Officer-in-Charge, Mahishadal Police Station is taken on record.

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.)