

Item No.1878(ML)

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

14.05.2024
Ct-24

WPA 16131 of 2022

Sahidul Haque Molla & Ors.
v.
The State of West Bengal & Ors.

Mr. Sarwar Jahan
Mr. Asraf Mondal
Mr. Aritra Kumar Thokdar
... for the petitioners.

The petitioners complain of illegal and unauthorized construction at the behest of the private respondents. Allegation is that construction has been made by filling up of a water body.

Reliance has been placed on the record-of-rights to show that the plot no. 5205, Khatian No. 7315, Mouza-Barachandghar, J.L.No. 123 is recorded as water body (Doba).

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.

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.

The writ petition is accordingly disposed of by directing the respondent no. 9, Pradhan, Bara-Chandghar Gram Panchayet 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.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

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 representation dated

July 7, 2022 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.

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(Amrita Sinha, J.)