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05.02.2024
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 15816 of 2023

**Dipak Pal
-versus
The State of West Bengal & Ors.**

**Mr. Subhrajyoti Ghosh.
...For the Petitioner.**

**Mr. Jayantya Kumar Mondal,
Mr. Sayantan Rakshit.
...For the Respondent
Nos. 7 and 8.**

**Mr. Tapan Coomar Dey,
Mr. Supriya Majumder.
...For the State.**

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

The petitioner complains of illegal and unauthorized construction at the behest of the private respondents.

Objection filed before the Pradhan of the Gram Panchayat is pending consideration.

Learned advocate appearing for the private respondents denies the allegation of the petitioner.

It has been submitted that there is gross suppression of material facts. The predecessor-in-interest of the petitioner transferred the property in

question in favour of the private respondents by way of a deed of settlement. The private respondents only for the purpose of protecting the property constructed boundary wall and parapet. Allegation of any further unauthorized construction has been denied.

It appears from the affidavit of the writ petition that there is certain error in paragraph No. 1 of the affidavit. The writ petition has been filed by only one petitioner and, accordingly, the question of authorization by the other petitioners to affirm the affidavit on the present petitioner does not arise at all.

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. 4, Balsi II 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 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 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.

The petitioner is directed to forward a copy of the undated representation made before the Pradhan of the Gram Panchayat annexed at page 20 of the writ petition to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Report filed by the Officer-in-charge, Patrasayer Police Station, Bankura is taken on record.

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

(Amrita Sinha, J.)