

Court No. 2
08.7.2024
(Item No. 13)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 21302 of 2023

Sri Paltu Kumar Bera @ Paltu Bera & Anr.
VS
The State of West Bengal & Ors.

Mr. Anup Dasgupta
.... For the petitioner
Mr. Nirmal Biswas
Mr. Supriya Majumder
.... For the State
Mr. Gourab Ghosh
Ms. Renesa Dey
... for respondent No. 6
Mr. Goutam Dinda
.... Fore respondent No. 7

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

The petitioners complain of an alleged illegal
and unauthorized construction on the subject piece of
land at the behest of the private respondent Nos. 7.
The petitioners submit that, a representation dated
July 20, 2023, Annexure-P-4 at page 43 to the writ
petition was submitted before the Pradhan of the
concerned Panchayat and the same has not been
considered.

The learned advocate appearing for the private
respondent submits that, the piece of land where
upon the unauthorized and illegal construction is
alleged is a joint property and no partition has taken
place, a partition suit is pending being **T.S. No. 129**
of 2023 before the learned Civil Judge, Senior

Division, Tamluk. He further submits that, by consent of all the co-owners the alleged construction has been made and the alleged construction has been there for about more than last twenty years. The alleged unauthorized construction relates to repairing of a privy.

Considering the above, the Pradhan of the concerned Panchayat is directed, upon issuing a prior notice on the petitioners and the private respondent No. 7 shall cause a physical inspection of the alleged unauthorized and illegal construction and then after giving them an opportunity of hearing shall dispose of the said representation dated **July 20, 2023**, as referred to above, by passing a reasoned order in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the Pradhan of the concerned Panchayat positively within a period of **six weeks** from the date of communication of this order. The Pradhan then shall communicate the reasoned order to the petitioners and the private respondent positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the rival claims of the parties mentioned in the said representation. The petitioners and the private respondent shall be at liberty to urge

whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the Pradhan of the concerned Panchayat but the same shall not travel beyond the scope of the alleged unauthorized and illegal construction.

In the event, the reasoned order confirms the alleged unauthorized and illegal construction, the Pradhan of the concerned Panchayat positively within a period of **seven days** from the date of the communication of the said reasoned order to the parties shall transmit the same and refer the matter before the jurisdictional **Sub Divisional Officer** in terms of **Sub Section (5) to Section 23** of the **West Bengal Panchayat Act, 1973**.

The jurisdictional **Sub Divisional Officer** then shall take all necessary and consequential steps to give an immediate effect to the said reasoned order, without any delay expeditiously in accordance with law.

It is made clear that, this order shall not create any right or equity in favour of the petitioners, if the petitioners are not eligible to receive their claim in terms of their representation with regard to the alleged unauthorized and illegal construction.

The petitioners shall serve a copy of this order upon the jurisdictional **Block Development Officer** who shall ensure that, the direction of this Court is

carried out and complied with by the Pradhan of the concerned Panchayat.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions this writ petition, **WPA 21302 of 2023** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)