

Item No.21

07.02.2024
Ct-24

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 22389 of 2023
Sri Becharam Samanta & Ors.
v.
The State of West Bengal & Ors.

Mr. Kushal Chatterjee
Mr. Debrup Choudhury
... for the petitioners.

Ms. Mekhla Sinha
Mr. Malabika Roy Dey
... for the Howrah Zilla Parishad.

Mr. Debjit Mukherjee
Ms. Rupsha Chakraborty
... for the State.

The petitioners complain that the private respondents are illegally filling up a water body and raising construction thereon. A septic tank has been constructed over the water body by filling it up. Repeated objections filed before the Gram Panchayat has not been considered.

A legal representation has also been filed before the Gram Panchayat and the Howrah Zilla Parishad. There is no response to the same.

None represents the private respondents.

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

Learned advocate representing the Howrah Zilla Praishad submits that the Pradhan will be the competent authority to take a decision in the matter.

As the land in question falls within the jurisdiction of the Gram Panchayat, in the absence of the Pradhan and the private respondents, it will not be possible for the Court to adjudicate the issue conclusively.

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.

As it appears that the representation of the petitioners 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. 2 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 within a period of three months from the date of 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.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or

decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

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 learned advocate for the petitioners is directed to forward the copy of the legal representation dated August 24, 2023 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.)