

S/L 13
21.3.2024
Court No.24
SD

WPA 23096 of 2023

Rabi Sankar Pal @ Paul & Anr.
Vs.
State of West Bengal & Ors.

Mr. Sounak Bhattacharyya
Mr. Abhirup Halder

...for the Petitioners.

Mr. Amitava Choudhuri
Mr. Bishnupada Jana

...for the State.

Perused the report filed by the Block Development Officer, Dashpur-II Development Block signed on March 19, 2024.

It appears therefrom that the panchayat has confirmed that no building permit was given from their end for raising construction over Dag No.172.

From the record of rights annexed to the writ petition, it appears that Dag No.172 is recorded as 'doba'. The Court fails to understand as to why the Pradhan is not taking any steps against the construction that has been made over a plot of land recorded as a 'water-body' in the record of rights. The report of the Block Development Officer suggests that the claim for forceful conversion of 'doba' has been rejected, but the reason for rejecting such claim is not reflected in the report.

The Pradhan ought to have taken steps against the construction that has been made over a water-body. Instead of the same, the Pradhan has given direction as to how the construction may be utilized. The Pradhan has given

direction for payment of rent and for sale of the subject property and the name of the person to whom the unauthorizedly constructed structure has to be sold is also reflected in the impugned order.

It appears that the Pradhan has exceeded his jurisdiction and entered to decide the private dispute amongst the parties. The Pradhan was only required to take a decision as to whether the construction in question has been made in accordance with law or not.

If the construction in question has been made contrary to the provision of law, then appropriate steps to deal with the unauthorized construction was liable to be taken by the Pradhan. Instead of the same, the Pradhan has passed other directions which cannot be accepted by the Court.

In view of the above, the impugned order passed by the Pradhan of the Gram Panchayat on May 24, 2023 is liable to be set aside and is, accordingly, set aside.

The Pradhan is directed to reconsider the matter strictly in terms of the direction passed by the Court on January 18, 2023.

The consideration shall be made at the earliest, but positively within eight weeks from the date of communication of this order.

The reasoned order shall be communicated to the parties immediately thereafter.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be given to the parties, upon compliance of all formalities, on priority basis.

(Amrita Sinha, J.)