

07-02-2024
Item No.28
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.23318 of 2023
Ashok Kumar Das & Anr.

-vs-

The State of West Bengal & Ors.

Mr. Prasayan Mukherjee ...for the petitioners

Mr. Sanjay Saha ...for respondents no.8 & 10

The petitioners complain of illegal and unauthorised construction at the behest of the private respondents. Objection filed against such unauthorised construction before the concerned authority is pending consideration till date.

Learned advocate representing the private respondents no.8 and 10 raises an issue with regard to locus standi of the petitioners in filing the instant writ petition. It has been submitted that construction in any manner whatsoever has not been carried out at the instance of the private respondents. The boundary wall that has been constructed is within the permissible limit with due intimation to the Panchayat authority.

None represents the Gram Panchayat.

In view of the order that I propose to pass, none of the non-appearing respondents would 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, the writ petition is accordingly

disposed of by directing the respondent no.6 being the Pradhan, Tapna Gram Panchayat to consider and dispose of the representation made by the petitioner strictly in accordance with law by giving a reasoned decision, 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 reasoned decision once passed shall be communicated to all the necessary parties, including the petitioner forthwith.

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 of the sanctioned plan, then necessary steps shall be taken dealing 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 between 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 petitioners' claim, and that all points are left open to be decided by the aforesaid respondent at the time of consideration of the petitioner's representation.

The petitioners are directed to forward a copy of the representation dated June 28, 2023 (Annexure P2, p.19) to the aforesaid respondent at the time of communication of the order of the court.

The writ petition stands disposed of. No order as to costs.

Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]