

07-02-2024
Item No.29
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.23333 of 2023
Smt. Sabita Roy
-vs-
The State of West Bengal & Ors.

Mr. Ayan Banerjee
Mr. Suman Banerjee ...for the petitioner

Mr. Nirmalya Biswas ...for the State

Mr. Kushal Chatterjee
Mr. Oishik Chatterjee ...for respondents no.9-10

The petitioner is aggrieved by the construction made at the behest of the private respondents without obtaining any sanction over an unpartitioned plot of land. The complaint lodged before the Gram Panchayat authority is pending consideration.

Learned counsel representing the private respondents submits that the construction in question is an old one and no new construction has been raised at present.

Learned counsel representing the petitioner as well as the private respondents admits that a partition suit is pending in between the parties before the learned civil court.

Without entering into the allegations and counter-allegations made by the respective parties as it appears that the complaint alleging unauthorised construction is pending consideration at the end of the Gram Pachayat, accordingly the instant writ petition is disposed of by directing the respondent no.2 being the

Haripal Ashutosh 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 petitioner, 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 petitioner's 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 petitioner is directed to forward a copy of the legal representation dated August 29, 2023 (Annexure P8, p.38) 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 of this order, if applied for, be made available to the parties.

[Amrita Sinha, J]