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19.02.2024
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 24294 of 2023

**Sumana Guha
-versus
The State of West Bengal & Ors.**

**Mr. Sudarshan Ghosh.
...For the Petitioner.**

**Mr. Amitava Chowdhuri,
Mr. Samrat Paul.
...For the State.**

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

None appears on behalf of the private respondent.

Leave is granted to the learned advocate appearing for the petitioner to correct the name of the respondent no. 7 in the cause title of the writ petition. The name should read as **Arup Chatterjee** in place and instead of Arub Chatterjee.

The petitioner alleges that the private respondent is making unauthorized construction without obtaining any sanction from the Gram Panchayat.

Learned advocate appearing for the State respondents has obtained instruction from the Block Development Officer. The instruction forwarded by the Block Development Officer contains a communication

made by the Secretary of the Gram Panchayat on 12th October, 2023. It mentions that the site in question was inspected but no new construction was found. It was gathered that certain repairing work was being done at the instance of the private respondent.

It has, however, been mentioned by the Secretary of the Gram Panchayat that no plan was obtained at the time of making such construction.

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 petitioner 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. 5, Uttar Durgapur Gram Panchayet to consider and dispose of the representation made by the petitioner, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioner, at the earliest, but positively within a period of three months from the date 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 petitioner, 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.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The Panchayat Authority will not decide the right, title and interest of the parties and will restrict the decision only with regard to unauthorized construction being made without a sanctioned plan.

Learned advocate appearing for the petitioner is directed to forward a copy of the representation dated 11th September, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The instruction given by the Block Development Officer signed on 13th October, 2023 is taken on record.

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.

(Amrita Sinha, J.)