

Court No. 2
08.7.2024
(Item No. 17)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 24545 of 2023

Smt. Shipra Mitra
VS
Zilla Parishad, Howrah & Ors.

Mr. Tapan Kumar Rakshit
Mr. Surojit Roy
.... For the petitioner
Mr. Tapan Coomaar Dey
Mr. S. Alam
.... For the State
Ms. Mekhla Sinha
Ms. Malabika Roy Dey
.... For Howrah Zilla Parishad
Ms. Shebatee Datta
Ms. Poulami Dey
.... For respondent No. 5

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

Mr. Tapan Kumar Rakshit, learned advocate appears for the petitioner.

Mr. Tapan Coomaar Dey, learned advocate appears for the State.

Ms. Mekhla Sinha, learned advocate appears for Howrah Zilla Parishad.

Ms. Shebatee Datta, learned advocate appears for respondent No. 5.

Learned advocate for the private respondent submits that, there has been a plan sanctioned on **December 10, 2015** in pursuance where of the alleged construction has been made and there is no illegality. She further submits that, a Title Suit has also been filed by the petitioner against the private

respondent being **T.S. No. 32 of 2016** pending before the learned Civil Judge, Junior Division, 6th Court, Howrah.

The petitioner complains of an alleged illegal and unauthorized construction on the subject piece of land at the behest of the private respondent No. 5. The petitioner submits that, a representation dated **April 27, 2015, Annexure-P-2 at page 16** to the writ petition was submitted before the Pradhan of the concerned Panchayat and the same has not been considered.

Considering the above, the Pradhan of the concerned Panchayat is directed, upon issuing a prior notice on the petitioner and the private respondent No. 6 shall cause a physical inspection of the alleged unauthorized and illegal construction and then after giving them an opportunity of hearing shall dispose of the said representation dated **April 27, 2015**, as referred to above, by passing a reasoned order in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the Pradhan of the concerned Panchayat positively within a period of **six weeks** from the date of communication of this order. The Pradhan then shall communicate the reasoned order to the petitioner and the private respondent

positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the rival claims of the parties. The petitioner and the private respondent shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the Pradhan of the concerned Panchayat but the same shall not travel beyond the scope of the alleged unauthorized and illegal construction.

In the event, the reasoned order confirms the alleged unauthorized and illegal construction, the Pradhan of the concerned Panchayat positively within a period of **seven days** from the date of the communication of the said reasoned order to the parties shall transmit the same and refer the matter before the jurisdictional **Sub Divisional Officer** in terms of **Sub Section (5) to Section 23** of the **West Bengal Panchayat Act, 1973**.

The jurisdictional **Sub Divisional Officer** then shall take all necessary and consequential steps to give an immediate effect to the said reasoned order, without any delay expeditiously in accordance with law.

It is made clear that, this order shall not create any right or equity in favour of the petitioner, if the

petitioner is not eligible to receive his claim in terms of his representation with regard to the alleged unauthorized and illegal construction.

The petitioner shall serve a copy of this order upon the jurisdictional **Block Development Officer** who shall ensure that, the direction of this Court is carried out and complied with by the Pradhan of the concerned Panchayat.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions this writ petition, **WPA 24545 of 2023** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)