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19.02.2024
NB/AGM

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 24717 of 2023

Sri Shibaprasad Chakraborty
Vs.
The State of West Bengal & Ors.

Mr. Abhilash Chatterjee.
...for the petitioner.

Mr. Indranil Roy,
Mr. Tapas Kumar Mondal.
...for the State.

Mr. Somdev Ash,
Ms. Sohini Mukherjee.
...for the respondent nos.9 to 11.

Ms. Mekhla Sinha,
Ms. Malabika Roy Dey.
...for the Howrah Zilla Parishad.

The petitioner complains of illegal and unauthorised construction at the behest of the private respondents.

Specific submission is that construction has been made without maintaining the mandatory side open spaces which is infringing the easementary right of the petitioner.

Complaint lodged against such unauthorised construction on multiple occasions has not been responded to by the respondent authorities.

Learned advocate representing the private respondents submits, upon instruction, that the construction is being made according to the plan sanctioned by the Gram Panchayat.

It has been submitted that a civil suit is pending consideration before the learned Court below in between the same parties on the selfsame cause of action.

A sanctioned plan has been produced before this Court by the learned advocate representing the private respondents. The plan has been sanctioned for construction of G+1 storied building.

In view of the above, the respondent no.5 i.e. Salap 1 Gram Panchayat is directed to consider the objection filed on behalf of the petitioner on 31st August, 2023 in accordance with law after giving reasonable 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 said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioner immediately thereafter.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

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.

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 of 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 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 petitioner is directed to forward a copy of the legal representation dated 31st August, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

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.)