

Item No.37

05.03.2024  
Ct-24

In the High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

WPA 24868 of 2023  
Biswarup Ghosh & Ors.

v.

The State of West Bengal & Ors.

Mr. Goutam Bhakat  
Mr. Prosenjit Mukherjee  
Mr. Jahangir Hossain  
Mr. Saptarshi Chakraborty  
Mr. Manisa Mondal  
... for the petitioners.

Mr. Lalit Mohan Mahata, AGP  
Mr. Ziaul Haque  
... for the State.

From the track report annexed to the affidavit-of-service filed by the petitioners it appears that the respondent nos. 8 & 9 refused to accept the copy of the writ petition and the upgradation notice. The Panchayat received the notice of upgradation but refused to accept the copy of the writ petition.

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

Complaint lodged by the petitioner alleging illegal and unauthorized construction over RS Dag No. 136 and 137 corresponding to LR Dag No. 142 and 143, JL No. 48, Mouza-Dangra, P.S.-Pingla is pending consideration at the end of the Gram Panchayat.

The petitioners claim that the land in question is recorded in favour of a deity. Construction has been

made over the said plot of land without any sanctioned plan.

In view of the order that I propose to pass none of the non-appearing respondents will 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, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no. 7, Dangra 2 No. Gram Panchayat to consider and dispose of the representation made by the petitioners strictly in accordance with law, 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 said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioners immediately thereafter.

A spot inspection shall be conducted to ascertain the nature and extent of the 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The learned advocate for the petitioners is directed to forward the copy of the representations dated April 21, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

The unserved writ petitions annexed to the affidavit-of-service are directed to be taken back by the learned advocate representing the petitioners. The envelopes, however, remain on record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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**(Amrita Sinha, J.)**