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20.02.2024
NB/AGM

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 25433 of 2023

Upendranath Biswas
Vs.
The State of West Bengal & Ors.

Mr. Surjya Prasad Chattopadhyay,
Mr. Arjun Samanta.
...for the petitioner.

Mr. Jayanta Samanta,
Mr. Supriya Majumder.
...for the State.

Mr. Prantik Kr. Ghosh,
Mr. Sumanta Das,
Mr. Prasad Bhattacharyya,
Ms. Atreyee Halder.
...for the private respondent.

Leave granted to the learned advocate representing the private respondent to file vakalatnama in the department in course of the day.

The petitioner complains that the private respondent has raised construction of a boundary wall above the permissible limit without obtaining permission from the Gram Panchayat.

Complaint lodged against such unauthorised construction is pending consideration.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that construction has been made in accordance with the plan sanctioned by the Panchayat.

From the documents annexed to the writ petition and upon hearing the submission made on behalf of both the

parties, it appears that a title suit is pending consideration between the parties before the learned Court below. The issue of unauthorised construction of the boundary wall, however, is to be decided by the Gram Panchayat.

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.3 being the Pradhan 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 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 representation dated 3rd January, 2022 to the aforesaid

respondent at the time of communicating the order of the Court.

Report filed by the Officer-in-Charge of Bhimpur Police Station dated 04.12.2023 be retained with the records.

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.)