

11.03.2024

Sl. 46

Ct.No. 24

Amalranjan

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 27561 of 2023

Jhantu Bera and Ors.

Vs.

State of West Bengal and Ors.

Mr. Manoranjan Jana

Ms. Mitali Jana

...for the petitioners

Ms. Dipa Bhattacharya

...for the State

Name not supplied

...for the private respondent

The petitioners complain of illegal and unauthorized construction at the behest of the private respondent.

Allegation is that objection filed against such unauthorized construction is pending consideration till date.

Learned advocate representing the private respondent submits that the petitioners on an earlier occasion filed a separate writ petition being WPA 1427 of 2020. The said writ petition stood dismissed for default on 22nd November, 2022. Neither the fact of filing the earlier writ petition nor the fact of its dismissal has been disclosed in the present writ petition.

It has been submitted that the writ petition is liable to be dismissed on the ground of suppression of material fact.

Learned advocate representing the private respondent denies the allegation of the petitioners. It has been submitted that the private respondent is the owner of the plot of land where construction has been made under the Pradhan Mantri Awas Yojana.

I have perused the copy of the earlier writ petition and the present writ petition. The schedule of land where the alleged unauthorized construction has been made is the same.

The petitioners made further representation before the authority in the month of July, 2023. The same has also been considered.

In the earlier writ petition there was no adjudication and the matter stood dismissed on account of non appearance of the learned advocate representing the petitioners. On account of any laches on the part of the learned advocate, the petitioners ought not to suffer. Their allegation of unauthorized construction is yet to be considered by the Gram Panchayat.

In view of the order that I propose to pass, none of the parties will 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. 4, Purnachandrapur Gram Panchayat 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.

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.

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 14th July, 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.)