

Item No.37
13.03.2024
s.h.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A. 28975 of 2023
Mr. Snehashish Das
-versus
The State of West Bengal & Ors.**

**Mr. Sumanta Biswas
Mr. Bikash Shaw
Sk. S.N. Islam
...For the Petitioner.**

**Mr. Amitava Chaudhuri
Mr. Samrat Paul
... for the State.**

**Mr. Santanu Maji
Mr. S. Das
... for the private respondent
nos. 6 to 12.**

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

The petitioner complains of illegal and unauthorized construction over a water body being Dag No. 1789, Sabek Dag No. 1676, J.L. No. 31, Block-Sankrail.

The record of rights shows that the aforesaid dag has been classified as Pukur.

The petitioner has annexed photograph to show that pacca constructions have been raised thereon without obtaining any sanction and without conversion of the classification of the subject land. Repeated representations made by the petitioner before the respondent authorities have remained unheeded.

Learned advocate representing the private respondents submits, upon instruction that, the construction in question are in place for nearly two decades. No new construction has been made at present.

None represents the Gram Panchayat.

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

In the absence of the Pradhan the matter cannot be adjudicated conclusively.

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 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 legal representation dated October 13, 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.)