

17.02.2025
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Ct. no.39
ss

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. 17003 of 2024

**Saroj Kumar Sardar
-Vs-
The State of West Bengal & ors.**

Mr. M. Ghosh
Mr. Lakshminath Bhattacharya
... for the petitioner

Ms. Sabnam De Bardhan
Ms. Rupsha Chakraborty
... for the State-respondent

Affidavit of service filed on behalf of the petitioner is taken on record.

On the prayer of the learned Advocate for the petitioner, leave is granted to file supplementary affidavit. Supplementary affidavit filed by the petitioner is taken on record.

This writ petition has been filed seeking for demolition of illegal construction undertaken by respondent no.12 over the landed property situated at Dag No.939 under Mouza Haripur, P.S. Usthi, District South 24-Parganas.

The petitioner's case in brief is that the aforementioned property originally belonged to Late Basanta Kumar Sardar and after his demise the property-in-question devolved upon his wife, four daughters and two sons including the petitioner. Thereafter, the two sisters of the petitioner gifted their shares to the

petitioner by executing two separate registered Deeds of Gift and subsequently, the mother, another sister and brother also sold their share to the petitioner. It is further contention of the petitioner that the private-respondent no.12 has no interest over the landed property-in-question. However, he is illegally making construction without obtaining sanction plan and permission from the office of the local Gram Panchayat. The petitioner made a representation before the local Gram Panchayat being the respondent nos.10 and 11. However, no steps have been taken as yet. Hence, this writ petition.

Mr. Lakshminath Bhattacharya, learned Advocate for the petitioner submits that on an RTI application the petitioner has come to learn that the respondent has been constructing the structure over the land-in-question without obtaining sanction plan. He seeks that the representation dated 14th May, 2024 be relegated to the concerned Pradhan of the local Gram Panchayat for consideration and disposal of the same.

Ms. Sabnam De Bardhan, learned Advocate for the State-respondents submits that the entire dispute is civil in nature and the matter is pending before the Civil Court for adjudication. She also indicates as per report submitted by the Officer-in-Charge, Usthi Police Station no complaint has been received at the police station alleging of new illegal construction undertaken by the private-respondent no.12 without obtaining sanction plan. However, she submits that if the matter be relegated

to the Pradhan of the local Gram Panchayat, it needs to be heard in presence of both the parties. She files the report of the Officer-in-Charge, Usthi Police Station dated 11th July, 2024, which is taken on record.

It is found from the supplementary affidavit that upon an RTI application it has been informed that no such building plan is sanctioned by the local Gram Panchayat in the name of the private-respondent no.12. A representation was made on 14th May, 2024 alleging of such illegal construction of private-respondent no.12 on the property-in-question without obtaining sanction plan. However, that has not been disposed of as yet.

Considering the submissions advanced at the Bar, the respondent no.10, the Pradhan, Lakhikantapur Gram Panchayat is directed to consider and dispose of the representation of the petitioner dated 14th May, 2024 by adopting the following procedure:

- (i) Cause an inspection on the property-in-question upon notice to the petitioners as well as private respondent no.12. A report of such inspection along with sketch map be prepared, which shall be handed over to the parties.
- (ii) Thereafter the parties shall be heard upon notice and the representation of the petitioner dated 14th May, 2024 shall be disposed of by a reasoned order which shall be communicated to the parties within a week of passing of such orders.

(iii) On the basis of materials transpiring during inspection and hearing, the proceedings shall be taken to its logical conclusion in terms of provisions of Section 23 of West Bengal Panchayat Act.

(iv) The entire exercise shall be completed within a period of four weeks from date of communication of this order.

The petitioner is directed to communicate this order to respondent no.10, the Pradhan, Lakhikantapur Gram Panchayat along with copy of the representation dated 14th May, 2024.

It is made clear that this Court has not gone into the merits of this writ petition.

Since affidavits have not been called for, the allegations made in the writ petition are deemed to be not admitted.

With the aforesaid directions, the writ petition being **WPA 17003 of 2024** stands disposed of.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(**Bivas Pattanayak, J.**)