

05.03.2025

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Ct. no.39

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

W.P.A. 20587 of 2024

Osiman Bibi & ors.

-Vs-

The State of West Bengal & ors.

Mr. Pritam Majumdar

Mr. Mainak Singha Barma

... for the petitioners

Mr. Subrata Guha Biswas

Mr. Abhishek Chakraborty

... for the State-respondent

Mr. Satadal Sovan Halder

... for the respondent no.10

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

This matter is appearing under the heading '*To Be
Mentioned*'.

This writ petition has been filed for direction upon
the respondent nos.7 to 9 for demolition of the illegal and
unauthorized construction undertaken by the private
respondent nos.10 to 13 over the land situated under
Mouza Bijayramchak, Khatian No.103, 96, Dag No.986
measuring an area of 10 decimals of land under Police
Station Panskura, District Purba Medinipur.

Petitioners contend that the petitioners and the
private-respondents are the co-sharers in respect of the
aforesaid property-in-question and a suit for partition
being Title Suit No.25 of 2019 has been filed in the Court

of the learned Civil Judge (Junior Division), 3rd Court at Tamluk. In the said suit on the prayer of the plaintiffs (petitioners herein) an order has been passed by the Civil Court directing the parties not to change the nature and character of the schedule property. The private-respondents have made illegal and unauthorized construction forcibly over the property-in-question. The land over which the work of construction has been undertaken is classified as '*jal*'. The petitioners made a representation before the Pradhan of the Chaitanyapur-II Gram Panchayat being respondent no.8 on 18th April, 2024. However, the said representation has not been considered. Hence, this writ petition.

Mr. Pritam Majumdar, learned Advocate for the petitioners submits that the private-respondents have undertaken work of construction without any proper sanction plan. Referring to Rule 22 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004, he indicates that even if any permission is granted that is violative of the said Rules since the property-in-question is classified as '*jal*'. He seeks for appropriate direction upon the respondent no.8, Pradhan, Chaitanyapur-II Gram Panchayat, Panskura, Purba Medinipur for consideration of the representation of the petitioners dated 18th April, 2024.

Mr. Satadal Sovan Halder, learned Advocate for the private-respondent no.10 submits that the private-respondents have only made repairs and no such work of

construction has been undertaken as has been alleged. Moreover, the dispute by and between the parties is pending before the Civil Court for adjudication. Furthermore, the work of construction/ repair has been undertaken by the private-respondents with the consent of the petitioners. Hence, the allegations made in the writ petition are baseless. He files a copy of '*Salishi Patra*' which is taken on record.

Mr. Subrata Guha Biswas, learned Advocate representing the State-respondents submits that as per report submitted by the Inspector-in-Charge, Panskura Police Station no such work of construction is being continued at the instance of the private-respondents. As per direction passed by this Court in *WPA 3521 of 2024* the police authorities is keeping strong vigil at the area so that there is no kind of breach of peace and the order of the Civil Court is not violated. Be that as it may, he submits that the matter be relegated to the respondent no.8, Pradhan, Chaitanyapur-II Gram Panchayat, Panskura, Purba Medinipur, to consider the representation of the petitioners.

Considering the submissions advanced at the Bar, the respondent no.8, the Pradhan, Chaitanyapur-II Gram Panchayat, Panskura, Purba Medinipur is directed to consider and dispose of the representation of the petitioners dated 18th April, 2024 by adopting the following procedure:

- (i) Cause an inspection on the property-in-question upon notice to the petitioners as well as private respondents. 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 18th April, 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 two months from date of communication of this order.

The petitioners are directed to communicate this order to respondent no.8, the Pradhan, Chaitanyapur-II Gram Panchayat, Panskura, Purba Medinipur along with copy of the representation dated 18th April, 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 20587 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.**)