

Item No.60

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

04.12.2023
Ct-24

WPA 15861 of 2022

Md. Asique

v.

The State of West Bengal & Ors.

Mr. Partha Pratim Roy

Mr. Anirban Das

... for the petitioner.

Mr. Subhasis Bandopadhyay

... for the Municipality.

Mr. Jahar Dutta

Mr. Bipin Ghosh

... for the State.

The objection filed by the petitioner alleging illegal and unauthorized construction is pending consideration at the end of the Gram Panchayat as well as the Burdwan Municipality.

The land in question partially falls within the jurisdiction of the Panchayat and a portion thereof falls within the jurisdiction of the Burdwan Municipality.

Allegation of the petitioner is that construction has been made without obtaining necessary permission from the authorities. The petitioner claims ownership of the land in question.

None represents the Panchayat.

Learned advocate representing the Municipality seeks time to consider the representation filed by the petitioner.

The petitioner alleges that as the land in question falls within the jurisdiction of two different authorities, none is coming forward to consider the objection filed by the petitioner.

It appears that the objection was also filed before the Chief Executive Officer of the Burdwan Development Authority.

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. 6, the Chief Executive Officer of the Burdwan Development Authority 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.

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 learned advocate for the petitioners is directed to forward the copy of the representation dated February 17, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The Chief Executive Officer of the Burdwan Development Authority is directed to ensure that no unauthorized construction is carried out at the subject premises.

The writ petition stands disposed of.

Report filed by the Inspector-in-Charge, Burdwan Police Station be retained with the records.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

Sh

(Amrita Sinha, J.)