

Item No. 22

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

05.12.2023
Ct-24

WPA 16635 of 2023
Chayan Chakraborty

v.

The State of West Bengal & Ors.

Mr. Nilanjan Bhattacharjee
Mr. Arpan Guha
Mr. Saikat Dey
... for the petitioner.

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

Ms. Sima Adhikari
Ms. Kakali Naskar
... for the State.

Mr. Joy Chakraborty
Mr. Sandip Dinda
... for the respondent no. 7.

The petitioner complains that the private respondent is making construction unauthorizedly without leaving the mandatory side open spaces. The complaint lodged before the Zilla Parishad and the Gram Panchayat has not been considered till date.

Learned advocate representing the private respondent submits, upon instruction that, the construction is being made strictly in accordance with the plan sanctioned.

The petitioner has filed a Civil Suit on the ground of encroachment at the time of making construction, which is pending consideration.

It has been submitted that the plan was sanctioned by the Panchayat Samity but the Samity is not a party in the writ petition nor any objection has been filed before the Samity.

It appears from the submissions made on behalf of both the parties that the allegation of the petitioner regarding encroachment of the land of the petitioner at the time of raising construction is already pending consideration in the Title Suit filed by the petitioner.

The Panchayat will not be the appropriate authority to decide or adjudicate the issue of encroachment. The Panchayat authority, however, can decide as to whether the construction is being made in accordance with the sanctioned plan or not.

In view of the above, the instant writ petition is disposed of by directing the competent authority to cause a spot inspection to ascertain the exact nature and extent of the construction that has been made. If it appears that the construction has been made in deviation of the plan sanctioned, then necessary remedial measures shall be taken to deal with the same.

Steps shall be taken at the earliest but positively within a period of twelve weeks from the date of communication of this order.

Learned advocate for the petitioner is directed to forward a copy of the representation dated June 20, 2023 to the competent authority at the time of communicating the order of the Court.

The writ petition stands disposed of.

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

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

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(Amrita Sinha, J.)