

Item No.25

In the High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

05.12.2023  
Ct-24

WPA 17591 of 2023

Ajoy Sarkar

v.

The State of West Bengal & Ors.

Mr. Anup Kundu

Mr. S. Dhara

... for the petitioner.

Mr. Saunak Bhattacharya

Mr. Abhirup Halder

Mr. Anirban Saha Roy

... for the respondent no. 6.

Ms. Noelle Banerjee

Mr. Biswajit Das

... for the State.

The petitioner alleges that the private respondent is making construction without a valid sanctioned plan and without maintaining the mandatory side open spaces. Objection filed by the petitioner before the Gram Panchayat is pending consideration.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that construction is being made strictly in accordance with the plan sanctioned.

Attention of the Court has been drawn to the averments made in the plaint filed by the petitioner in respect of a partition Suit that is pending consideration between the parties.

The private respondent submits that the averments made in the plaint and the submission made

in the objection is similar. As the issue is pending consideration before the learned Civil Court, no order need to be passed in the present writ petition.

I have heard the submissions made on behalf of both the parties.

The Panchayat is the appropriate authority to issue sanctioned plan for raising construction. It is the duty of the Panchayat to ensure that construction is being made in accordance with the plan sanctioned.

The learned Civil Court will decide the issue of the partition relying on the averments made in the plaint. The issue of unauthorized construction ought not to be decided by the learned Court in the partition Suit filed by one of the parties.

To ascertain the exact nature and extent of unauthorized construction, the Panchayat is directed to cause a spot inspection and ensure that the construction is being made in strict compliance with the plan sanctioned.

Inspection shall be conducted upon prior notice to all the parties. Reasonable opportunity of hearing shall be given to the parties. If any unauthorized construction is detected, then necessary remedial steps shall be taken by the Panchayat.

Steps shall be taken in the matter 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 May 23, 2023

to the aforesaid respondent at the time of communicating the order passed by this Court.

Report dated August 9, 2023 filed by the Sub Divisional Officer, Sadar Bankura be retained with the records.

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.

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**(Amrita Sinha, J.)**