

S/L 21
21.09.2021
Court. No. 19
GB

WPA 8603 of 2021

Hamid Santu Molla
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Subrata Bhattacharjya.
...for the Petitioner.

Mr. Bipin Ghosh.
...for the Respondent No.2.

Mr. Uttiya Ray.
...for the Respondent No.6.

Mr. Ashis Guha,
Mr. N. Ghosh Dostidar.
...for the State.

The writ petition has been fixed today for hearing on the issues as to whether the building plan had rightly been sanctioned in favour of the respondent nos.6 by the Executive Officer, Kanksa Panchayat Samiti dated March 5, 2021.

A report has been submitted today by the Block Development Officer, Kanksa Development Block and the Executive Officer, Kanksa Panchayat Samiti, from which it appears that the permission was granted to the respondent no.6 upon following the provisions of Section 23 of the West Bengal Panchayat Act, 1973 read with Rule 28 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004. According to the Rules, for permission to construct a building having plinth area of more than 150 Sq. metre, but

not more than 300 Sq. metre and height upto 6.5 metre, the application has to be submitted to the Panchayat Samiti Office and permission would be given by the Executive Officer of Panchayat Samiti. Accordingly, the said permission was granted after verifying all documents and records and upon a field enquiry made by the Junior Engineer designated for such purpose. It is also to be noted that the landuse NOC was taken from the Assansol Durgapur Development Authority with respect to the said plot.

Under such circumstances, as the authority concerned has already filed a detailed report before this Court, nothing further remains to be decided as to the correctness in the issuance of the sanction plan. It also appears that the civil court has granted an injunction against the defendant/petitioner with a direction not to disturb the peaceful possession of the respondent no.6 in respect of the 'Kha' schedule property. The dispute in the writ petition was limited to illegal grant of sanction plan, which the authorities have stated before this Court through a report, to be legal and in accordance with law.

The documents with regard to the approval of the sanction plan, NOC from the Assansol Durgapur Development Authority and other related requirements are all before the Court. The Court does not find any illegality in the issuance of the sanction by the concerned authority as the said area is under the Assansol Durgapur Development Authority. It is the Executive Officer of the concerned

Panchayat Samiti who is empowered to grant the sanction/permission to build, as the area is under a development authority. The report is taken on record.

Copies of the report and the documents have been circulated amongst the learned advocate for the respective parties.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)