

28.06.2021
SL No. 19
Court No. 24
(P.M.)

WPA 10653 of 2021

Harihar Sharma
Vs
The State of West Bengal & Ors.
(Via Video Conference)

Mr. Gourab Ghosh,
Mr. Pradip Paul

... for the petitioner

Ms. Sipra Mazumdar
Mr. Khairul Alam

... for the State.

Mr. Mrinal Kanti Ghosh
... for the respondent no. 7-13

The petitioner prays for a direction upon the Gram Panchayet to permit him to make construction in accordance with the plan sanctioned in his favour by the Panchayet.

In response to a complaint filed by the private respondent against the construction made by him, a notice dated 30th March, 2021 was issued to the petitioner by the Prodhan of the Gram Panchayet to appear before him on 2nd April, 2021 with regard to the construction work that was being made by him.

A further notice dated 3rd April, 2021 issued by the Prodhan mentions that all the necessary documents as required was not produced by the petitioner on 2nd April, 2021 accordingly a further date that is 6th April, 2021 was fixed requiring the petitioner to appear along with all necessary documents.

A further notice dated 7th April, 2021 was issued directing the petitioner to immediately stop the construction work and to appear in the office with all necessary documents relating to the said construction.

The petitioner submits that on each and every occasion the petitioner was present before the Gram Panchayet along with all necessary documents, but the Panchayet authority intentionally and deliberately is not permitting the petitioner to carry on the construction work in accordance with the plan which was sanctioned in his favour.

The petitioner refers to a further notice dated 19th April, 2021 which mentions that as the Nirman Sahayak was unavailable on 12th April, 2021 on being busy with the election duty accordingly the next date of hearing will be intimated to him in due course. Till a further decision is taken with regard to the construction the petitioner has been restrained from carrying on any construction over the plot of land.

The petitioner submits that since thereafter no steps have been taken for reviewing the matter and he cannot make any construction although he possesses a valid plan which has been sanctioned in accordance with law in his favour.

The learned advocate representing the private respondent submits that the petitioner does not have any right, title and interest in respect of the plot where the

construction is being made. Reference has been made to a partition suit which is pending consideration before the learned Civil Judge.

It has been submitted that the petitioner has deliberately suppresses the actual facts and obtained a plan. Immediately on receipt of the information of the permission to construct the private respondents raised objection before the Gram Panchayet and necessary order direction has been passed for stopping the construction for the time being till a decision is taken by the Panchayet.

None appears on behalf of the Panchayet.

Affidavit of service filed in Court is taken on record.

As it appears that the Panchayet have acted in response to the objection raised by the private respondents and have issued notice upon the petitioner for appearing with all relevant documents, accordingly, the respondent No. 7 being the Prodhan of the Samsi Gram Panchayet is directed to take necessary steps for taking a decision with regard to the objection filed by the private respondents after giving an opportunity of hearing to all the necessary parties within a period of six weeks from the date of communication of a copy of this order and to pass necessary order strictly in accordance with law as to whether the petitioner will be entitled to carry on construction or not.

In the event the Prodhan is of the opinion that the plan was obtained upon suppression of relevant facts then

necessary consequential steps shall be taken by the Prodhan in accordance with law, immediately thereafter.

The Prodhan shall communicate the reasoned order to the parties at the earliest.

As the writ petition is being disposed of without calling for any affidavits allegations made in the writ petition are deemed not to have been admitted by the respondents.

WPA 10653 of 2021 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(**Amrita Sinha, J.**)