

19.07.2021
Sl. No.13
srm

W.P.A. No. 11113 of 2021

Nur Alam Sk
Vs.
The State of West Bengal & Ors.

Mr. Habibur Rahaman,
Mr. Partha Sarathi Sen Sharma,
Mr. Kapil Guha

...for the Petitioner.

Mr. Biswabrata Basu Mullick

...for the State.

Affidavit-of-service is taken on record. Despite service none appears on behalf of the respondent Nos. 7 to 12.

The writ petition has been filed challenging inaction on the part of the Baishata Gram Panchayat, District-24-Parganas(S), the respondent No.8 herein, in taking steps pursuant to the complaint lodged by the petitioner on June 22, 2021 alleging unauthorised construction by the respondent Nos.9 to 12. It is the contention of the petitioner that the petitioner has been possessing the land in question, which is a vested land and the respondent Nos.9 to 12 have been illegally raising construction without any permission from the Panchayat authorities.

It is an admitted case that the petitioner does not have any title to the land as yet. The petitioner has applied for a "patta" which has not been granted as yet. The question of

title, encroachment, etc. cannot be gone into by this Court. The Panchayat authority also cannot decide the question of title or encroachment. Such dispute between the parties with regard to the said land in question will be adjudicated by a civil court. However, the law is clear that unauthorised construction cannot be allowed by any party. When there is an allegation of unauthorised construction, the Baishata Gram Panchayat should ensure that such complaint is disposed of within a reasonable time, in accordance with law.

Under such circumstances, this writ petition is disposed of directing the competent authority of the Baishata Gram Panchayat to act and proceed in accordance with law and dispose of the representation of the petitioner dated June 22, 2021. A hearing shall be given to the petitioner and the respondent Nos.9 to 12. A reasoned order shall be passed and communicated to all concerned. An inspection shall be held immediately in the presence of the parties.

The proceedings shall be reached to its logical conclusion.

This Court has not gone into the merits of the claims and counterclaims of the parties.

This order shall also not be construed as a recognition of the petitioner's right to the title and possession on the land. The order is limited only to the enquiry of the allegation of

unauthorised construction and steps to be taken by the panchayat against any illegal construction.

The entire proceedings shall be disposed of within a period of 12 weeks from the date of communication of this order.

This writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)