

02.08.2021
Court No. 19
Item no.05
CP

WPA 11173 of 2021

Abdul Ali Molla & anr.
Vs.
State of West Bengal & ors.

(via video conference)

Ms. Shikha Pearl Chowdhury

....for the petitioners.

Mr. Sirsanya Bandopadhyay
Mr. Subhendu Sengupta

....for the State.

Despite service, none appears either on behalf of the pradhan, Chaital Gram Panchayat or on behalf of the respondents 6 to 10.

It is submitted that the respondents 6 to 10 with the support of the pradhan are raising unauthorized construction on Plot Nos 1891 and 1894, J.L. No. 22, L.R. Khatian No. 158, 337 and 6475 of Mouza – Chaital, P.S. Minakhan, District – North 24 Parganas. Although the panchayat authorities are not required to go into the question of title or encroachment, the allegation of illegal and/or unauthorized construction is to be looked into by the panchayat authorities as per law. The panchayat authorities and the respondents 6 to 10 were also

absent on the last occasion. Fresh service was directed to be effected on the respondents 6 to 10. Respondent no. 6 has been served. Respondents 7 to 10 are sons of the respondent no. 6 and it is submitted that they all reside in the same locality. According to the petitioners, respondents 7 to 10 are intentionally avoiding service. The writ petition is being taken up as the petitioners' prayer is innocuous.

Mr. Bandopadhyay, learned junior standing counsel for the State, appears in the matter and submits that the dispute is civil in nature. That steps have been taken under Section 107 of the Criminal Procedure Code and the respondent nos. 6 to 10 have been directed to maintain peace in the locality.

The writ petition is disposed of with a direction upon the competent authority of Chaital Gram Panchayat to dispose of the representation of the petitioners dated April 21, 2021, in accordance with law upon hearing the petitioners as also the respondents 6 to 10 and/or their representatives.

It is made clear that this order shall not be construed as any direction upon the panchayat authorities to decide either the question of title or the allegation of encroachment into the property of the petitioners. The order will be restricted to an enquiry and decision as to whether any construction is being

carried on by the respondents 6 to 10 without any permission from the authority. The panchayat authorities shall cause an inspection in the presence of the petitioners and also the respondents 6 to 10. Report of the inspection shall be served upon the parties. Thereafter, a hearing shall be given and a reasoned order shall be passed. The complaint of the petitioners shall be reached to its logical conclusion on the basis of what transpires in the inspection.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

This court has not gone into the merits of the allegations of the petitioners.

With the above observations, this writ petition is disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)