

S/L 19
14.09.2021
Court. No. 19
sn

WPA 11459 of 2021

Smt. Shanti Lata Patra
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Bharat Chandra Simai ...for the Petitioner.

Mr. T.M. Siddique ..for the State

Mr. Rabindra Nath Mahata
Mr. Aritra Shankar Ray ..for the respondent nos.10-12

The writ petitioner alleges that the respondent nos. 10 to 12 have constructed on an undivided portion of lands being plot nos.1353,1376,1377,1378 and 1379 of Mouza Barangi, J.L. No.193, L.R. Khatian no.558, P.S. Danton, District Paschim Medinipur without any sanction plan.

It is submitted that a complaint was made before the Pradhan, Chack Ismailpur Gram Panchayat-6 dated June 3, 2021 but the panchayat authorities have not acted on such representation.

Mr. Mahata, learned advocate for the respondent nos.10 to 12 submits that the petitioner has filed a suit in the Court of learned Civil Judge(Junior Division), Danton, Paschim Medinipur and the learned Court had directed *status quo* with regard to nature, character and possession over the suit property. Mr. Mahata further submits that the prayer for demolition cannot be allowed by the Court in view of the order passed by the suit court directing the parties to

maintain *status quo* with regard to nature, character and possession over the suit property. It is also submitted by him that the parties are jointly enjoying the suit property by building their individual dwelling houses.

Having considered the rival contention of the parties, this Court is of the opinion that although it is within the jurisdiction of the panchayat authorities to determine whether any construction has been made in deviation or in absence of a sanction plan and also take steps to demolish unauthorized constructions, if detected, the order of *status quo* passed by the civil court stands in the way of granting the final relief prayed for by the petitioner with regard to demolition of the construction in question. Moreover, the issue with regard to unauthorized construction has also not been decided by the panchayat authorities. The civil court has to also clarify whether the status quo order is only in respect of the land described in schedule 'A' of the plaint or whether the same includes all constructions attached with the land.

Under such circumstances, this writ petition is disposed of with a direction upon the concerned panchayat authorities to dispose of the representation of the petitioner in accordance with law upon granting an opportunity of hearing to the petitioner and the respondent nos. 10 to 12. The panchayat authorities shall restrict to its enquiry with regard to the allegations of construction in the absence of sanction plan. However, with regard to demolition, if any

unauthorized construction is detected, the same shall be subject to the modification and/or vacation and/or clarification of the order of status quo granted by the suit court. No further construction shall be permitted as there is already an order of status quo.

The panchayat authorities shall pass a reasoned order and intimate the same to the parties.

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

The petitioner shall serve a server copy of this order along with the complaint upon the panchayat authorities.

This writ petition is disposed of.

However, 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.)