

08.11.2021
Sl. No.5
srm

W.P.A. No. 10549 of 2019
Ganapati Purkait
Vs.
The State of West Bengal & Ors.

Mr. Pankaj Halder

...for the Petitioner.

Mr. Ziaul Islam

...for the State-respondents.

Mr. Biswarup Biswas,
Mr. Gora Chand Samanta

...for the Respondent No.9.

The writ petition has been filed challenging an unauthorised construction by the respondent No.9. It is the contention of the petitioner that the respondent No.9 has been constructing on an undivided property in question without any sanction plan.

A report has been filed today by the learned Advocate for the State-respondents prepared by the Block Development Officer, Mathurapur-I Development Block, South 24-Parganas. The same is taken on record. It appears that the Block Development Officer had enquired into the matter and obtained a clarification/statement from the Pradhan, Nalua Gram Panchayat, District-South 24-Parganas. The report of the Nalua Gram Panchayat is also before this Court. The panchayat authorities have specifically stated that the

construction has been made upon permission from the Gram Panchayat which was granted on September 24, 2019 and adequate side space on the right side of the plot of six ft. had also been left. It is the contention of the panchayat authorities that the construction has been carried on in accordance with law and without any violation.

The question of the petitioner that the sanction has been given illegally and with malafide intention cannot be decided here. The petitioner is entitled to challenge the decision to grant permission to construct, in accordance with law, if permissible. This writ petition has been filed against an alleged unauthorized construction, the authorities have stated that the construction is with permission and there are no violations. Thus nothing survives in this petition.

With regard to the other allegation of the petitioner relating to construction on an undivided portion, the petitioner is entitled to approach the civil court, if permissible under the law.

It is also the contention of the respondent No. 9 that the petitioner is residing in a portion of the said undivided property by enjoying a portion upon making a construction thereon.

It is made clear the any constructions will not create any equity in favour of either of the parties in respect of the undivided property.

This writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)