

S/L 11
08.09.2021
Court. No. 19
GB

WPA 12536 of 2021

Biswajit Naskar
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

*Mr. Soumitava Banerjee,
Md. Giasuddin Mulla,
Ms. Shikha P. Chowdhury.*
...for the Petitioner.

Mr. Tarunjyoti Tewari.
...for the Respondent Nos.6 to 11.

*Mrs. Sudipa Roy,
Mr. Srinath Singha Roy.*
...for the State.

The writ petitioner alleges illegal encroachment and unauthorised construction on R.S. Plot No.396, pertaining to R.S. Khatian No.531 of Mouza – Hatgaccha, P.S. – K.L.C., District – South 24 Parganas.

It is the contention of the petitioner that the plot of land was transferred to the petitioner by a deed of gift. Thereafter, the petitioner got his name recorded in the record of rights. It is alleged that the respondent nos.6 to 11 have encroached into the land of the petitioner and have raised unauthorised construction. The petitioner submits that despite several complaints having been made before the panchayat authorities as also the police authorities, no steps have been taken.

Mr. Tewari, learned advocate appearing on behalf of the respondent nos.6 to 11 submits that the said respondents

are the recorded owners of the plot of land and he refers to the L.R. records. He submits that the petitioner has been unsuccessful in a civil suit. He further submits that in respect of the self-same property proceedings have been initiated before the Land Reforms and Tenancy Tribunal. According to Mr. Tewari, the petitioner has no right, title and interest over the land in question.

It is submitted by Mrs. Roy, learned advocate appearing on behalf of the police authorities on instruction that no complaint with regard to the unauthorised construction has been raised before the police authorities but an intimation was sent to the police authorities with regard to the pendency of a civil suit.

Having heard the rival contentions of the parties, this Court is of the opinion that neither this Court nor the panchayat authorities have the jurisdiction to decide the question of title, encroachment, possession etc. The issues with regard to the correctness of the record of rights as also the allegation with regard to the entries in the record of rights are not to be decided either by this Court or by the panchayat authorities. However, as there is also an allegation of unauthorised construction, the writ petition is disposed of directing the appropriate authorities of the Bamanghata Gram Panchayat to consider and dispose of the contentions of the petitioner in the demand of justice dated May 25, 2021.

The panchayat authorities will restrict their enquiry and decision only to the complaint of illegal and unauthorised construction, that is, whether the said construction has been made in accordance with a sanction plan or in deviation thereof. No other allegation is to be looked into by the panchayat authority while disposing of the said representation. The panchayat authority shall give a hearing to the petitioner as also the respondent nos.6 to 11. A reasoned order shall be passed and communicated to all concerned. An inspection shall be held in presence of all the parties and the report of the inspection shall be handed over to the respective parties before the hearing is held.

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 made by the petitioner and the panchayat authorities shall decide the issues independently.

This writ petition is, thus, disposed of.

There will be, however, no order as to costs.

All parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)