

09.12.2021
Court No. 19
Item no.10
CP

WPA 12580 of 2021

Umbar Ali, @ Sk. Umbar Ali @ Sekh Ummar Ali & anr.
Vs.
The State of West Bengal & ors.

Mr. Biswajit De
Ms. R. Ghatak

....for the petitioners.

Mr. Rajarshi Basu
Mr. P. Goswami

....for the State.

Despite service for the second time, none appears either on behalf of the panchayat authorities or respondents Nos. 6 to 8.

In this writ petition, the petitioners have alleged that respondents Nos. 6 to 8 have raised a pucca construction on a portion of Plot No. 814, Mouza – Golar, Police Station – Keshpur, District – Paschim Midnapore, of which the petitioners claim to be a patta holder. It is the specific case of the petitioners that 3 decimals of land had been settled in favour of the petitioners vide R.S. Case No. 74/K/01 dated July 30, 2001.

Mr. Basu, learned advocate appearing on behalf of the State respondents, has filed a report prepared by the Block Land & Land Reforms Officer from which it appears that the said plot measures about 0.91 acres which had vested to the State under

the West Bengal Estate Acquisition Act. Out of the said 0.91 acres, 0.58 acres had been distributed to landless persons. It is also stated that 3 decimals of land had been recorded in the name of the petitioner and the father of the respondents Nos. 6 to 8 had been given patta over 0.05 acres. It appears that there has been a dispute with regard to the possession of the plots in question between the parties. The said report is taken on record.

However, this court is not inclined to make any observation on the issue of title, possession and encroachment as alleged in the writ petition and as has been stated by the Block Land & Land Reforms Officer, in the report. The enquiry of this court and the panchayat authorities should be restricted to the allegation of unauthorized construction.

It has been specifically alleged by the petitioners as also by the police authorities that a 'kuccha' structure has been broken down and a pucca structure has been constructed. Although it is not within the domain of the police authorities to decide the nature and validity of such construction, this court is of the opinion that the allegations are serious in nature and the panchayat authorities are duty bound to enquire and ensure no unauthorized construction takes place.

The writ petition is disposed of with a direction upon the competent authority of the No.4 Golar Gram Panchayat, to dispose of the complaint of the petitioner which appears at page 46 of the writ petition being Annexure – P7, in accordance with law. The concerned panchayat authorities shall proceed in terms of Section 23 of the West Bengal Panchayat Act, 1973, in the following manner:

- a) An inspection of the premises shall be made. Such inspection shall be held in the presence of the parties, with 48 hours advance notice.
- b) The report of the inspection shall be prepared and supplied to the parties.
- c) A hearing shall be given to the parties. The parties must also be allowed to make oral submissions as also adduce evidence in support of their contentions.
- d) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion.

Needless to mention that if any unauthorized construction is found, the authorities shall reach the proceedings to its logical conclusion. The question of

title, possession, encroachment etc. shall not be gone into by the panchayat authorities.

The court has not gone into the correctness of the claims and counter-claims of the parties and the dispute shall be decided in accordance with law and independently, by the panchayat authorities.

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

The police authorities have also filed a report. The same is also taken on record. It appears from the report there has been a long standing dispute between the parties and the allegations of the petitioners have partly been substantiated by the enquiry made by the police authorities. The police authorities have already submitted a prosecution case under Section 107 Cr.P.C. before the appropriate criminal court against the respondents 6 to 8.

If the petitioners have any allegations with regard to the commission of any criminal offence, the petitioners are at liberty to approach the concerned police authorities in accordance with law.

The writ petition is, thus, disposed of. There shall be no order as to costs.

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

(Shampa Sarkar, J.)