

23.9.2021
Court No. 19
Item no.21
sn

WPA No.12641 of 2021

GOLAM MOLLA & ORS.
VS.
THE STATE OF WEST BENGAL & ORS.
(via video conference)

Md. Giasuddin Mulla
Mr. Soumitra Banerjee
Ms. Sikha Chowdhury ...for the Petitioners

Mr. Naba Kumar Das
Mr. Subhabrata Das ..for the State

Despite service, none appears either for the panchayat authorities or the respondent nos. 6 to 8. Further affidavit of service filed in Court today be taken on record.

The petitioners allege unauthorized construction by the respondent nos. 6 to 8 on plot nos. 931, Mouza Chatrakhali, J.L. No.66, R.S. Khatian no. 222 within Basanti Police Station, District South 24 Parganas.

It is contended that the respondent nos. 6 to 8 have constructed unauthorisedly on the said plot of land without any permission or a valid sanction plan granted by the authorities. It is further submitted that the said land is partly agricultural land and partly a burial ground and constructions are not permitted on the said land.

Mr. Das, learned advocate for the State respondents submits a report, from which it appears

that the police had made an enquiry and are of the opinion that the disputes between the parties are over ownership and the title to the land in question. Prosecution has also been submitted against the respondent nos. 6 to 8 before the concerned Magistrate. However, neither the police authorities nor the panchayat authorities are empowered to decide the question of title, encroachment or boundary disputes. The power of the panchayat authorities is limited to the question as to whether any construction has been made without a valid sanction plan or in deviation of a sanction plan.

With regard to the grievances of the petitioners over ownership and change of user of the lands etc., the petitioners are at liberty to approach the appropriate forum. However, it is for the panchayat authorities to decide the question of unauthorized construction.

This writ petition is disposed of with a direction upon the competent authority of Phulmalancha Gram Panchayat to dispose of the demand of justice made by the petitioners through their learned advocate, which is at page 16 being Annexure p/3 to the writ petition. While disposing of the said representation, the panchayat authorities will make an inspection in presence of the parties, supply the order of inspection to the parties, and upon giving an

opportunity of hearing to all the parties to make their respective submissions, pass a reasoned order. The reasoned order shall be communicated to the parties.

It is made clear that no step shall be taken by the panchayat authorities without the participation of the respondent nos. 6 to 8.

This Court has not gone into the merits of the claims and counterclaims of the parties and the panchayat authorities shall act and proceed in accordance with law, on the basis of what transpires at the hearing and during the inspection.

The written instructions submitted by the police authorities are taken on record.

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

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

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

(Shampa Sarkar, J.)