

S/L 17
08.12.2021
Court. No. 19
GB

WPA 14449 of 2021

Susanta Kumar Dhamuria
Vs.
The State of West Bengal & Ors.

Mr. Amit Baran Dash.

...for the Petitioner.

*Mr. Susanta Pal,
Mr. Prabir Kumar Ray.*

...for the State.

*Mr. Balaram Pandit,
Mr. Krishna Deo Das..*

...for the Respondent No.9.

In the writ petition it has been alleged that the respondent no.9 has constructed on a portion of Plot No.1074, Mouza-Gomunda, Police Station-Mohanpur, District-Paschim Medinipore without converting the same to 'Bastu' land and also without taking any permission from Nilda Gram Panchayat. Accordingly, a complaint was filed before the competent authority of the said Gram Panchayat, which has not yet been disposed of.

Mr. Dash, learned advocate appearing on behalf of the petitioner submits that the permission granting authority should be directed to act and proceed in terms of Section 23 of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the 'said Act').

Mr. Pandit, learned advocate appearing on behalf of the respondent no.9 submits that the said respondent

became the owner of the land in question by virtue of a deed of exchange, entered into between the petitioner and the respondent no.9. The father of the petitioner and the respondent no.9 was the erstwhile owner of the said property. A portion of the property was gifted to the respondent no.9. Thereafter the petitioner exchanged his share with the property now owned and possessed by the respondent no.9. That the construction thereat was made by the petitioner and not by the respondent no.9 before the exchange.

The afore-mentioned submission of the respondent no.9 is denied by the petitioner. However, neither this Court nor the panchayat authority has any jurisdiction to decide the question of title, possession and encroachment. As the petitioner has already approached the Pradhan, Nilda Gram Panchayat by filing a complaint, the same must be disposed of in accordance with law. Upon hearing both the parties a reasoned order shall be passed and communicated to all concerned. An inspection shall be made in presence of the parties and a copy of the inspection report shall be handed over to the parties. The authority shall reach the proceeding to its logical conclusion strictly in accordance with law. The question of title, possession, encroachment etc. shall not be decided by the panchayat authority. The panchayat authority shall only enquire whether any construction has been made after the promulgation of the said Act by the respondent no.9

without appropriate authorization/permission from the authorities concerned.

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

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)