

08.12.2021
Sl. No.21
srm

W.P.A. No. 14719 of 2021
Alauddin Gazi
Vs.
The State of West Bengal & Ors.

Mr. Biswaroop Biswas

...for the Petitioner.

Mr. Narayan Chandra Bhattacharya,
Ms. Sujata Ghosh

...for the State-respondents.

Despite service none appears either on behalf of the panchayat authorities or on behalf of the respondent Nos.12 and 13. Affidavit of service is taken on record.

The petitioner has alleged unauthorised construction on a plot of land of which the petitioner claims to be the recorded owner. It is alleged that the respondent Nos.12 and 13 have started raising a “pucca” construction on Plot No.2486, of Mouza-Charabidya, J.L. No.058 pertaining to Khatian No.3046, Police Station-Basanti, District-South 24-Parganas, without any permission from the panchayat authorities. It is alleged that the petitioner lodged a complaint before the Pradhan of the Charabidya Gram Panchayat, District-South 24-Parganas as also the Sub-Divisional Officer, Canning and Block Development Officer, Basanti Development Block.

According to the petitioner, the authorities have failed and neglected to perform their duties mandated by law and hence the writ petition has been filed.

The contention of the petitioner with regard to being the recorded owner of the land in question his assertion of title are not matters to be decided either by this Court or by the panchayat authorities.

Thus, the question of title and encroachment of the petitioner shall not be looked into by the panchayat authorities. However, the panchayat authorities are duty bound to enquire as to whether there has been any unauthorised construction as alleged by the petitioner. The petitioner has already approached the Pradhan of the said gram panchayat by a letter dated August 10, 2021. The said representation/complaint of the petitioner shall be disposed of in accordance with law upon hearing the petitioner as also the respondent No.12 and 13. It is made clear that the question of title, possession and encroachment shall not be gone into by the panchayat authorities. The enquiry of the panchayat authorities will be limited to the question as to whether there has been any unauthorised construction, that is, whether a "pucca" structure has been constructed or is being constructed without any valid permission from the panchayat authorities.

The competent authority of the concerned gram panchayat shall cause an inspection of the premises in question in the presence of the parties. A copy of the inspection report shall be supplied to the respective parties. Thereafter, the parties shall be allowed to file their written versions in support of their contentions. A hearing shall be given to the parties and a reasoned order shall be passed and communicated to all concerned. Needless to mention, if the unauthorised construction is detected, then proceedings under Section 23(5) of the West Bengal Panchayat Act, 1973 shall be reached to its logical conclusion in accordance with law.

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 claims of the petitioner and all points will be decided by the panchayat authorities.

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.)