

02.12.2021
Sl. No.6
srm

W.P.A. No. 15142 of 2021
Jahangir Alam
Vs.
The State of West Bengal & Ors.

Mr. Mrinal Kanti Ghosh
...for the Petitioner.

Mr. Sukanta Chakraborty,
Mr. Jahangir Alam,
Mr. Anindya Halder
...for the Respondent No.6.

Sk. Mujibar Rahaman,
Mr. Rajaram Banerjee
...for the State-respondents.

Despite service on two occasions, none appears on behalf of the panchayat authorities. Affidavits of service are taken on record.

The petitioner has alleged unauthorised construction by the respondent No.6 on a portion of the property situated at L.R. Plot No.24, Mouza-Harishchandrapur, District-Malda. It is contended by the petitioner that the construction has been made without any sanction plan and in violation of the order of the learned Civil Court.

Mr. Chakraborty, the learned Advocate appearing on behalf of the respondent No.6, submits that the said respondent has a valid permission from the Harishchandrapur No.1, Gram Panchayat. A copy of the sanction plan has been

handed over to the Court. Mr. Chakraborty further produces an information slip from the Court of the learned Civil Judge (Senior Division), Chanchal, Malda, from which it appears that the interim order passed in Partition Suit No.104 of 2021 has not been extended. Certified copy of the last order of the suit has also been produced.

Be that as it may, this Court is not inclined to pass any order with regard to the status of the suit or the nature and effect of the order of injunction, which has been passed in the suit. As there are allegations that the construction is going on without the sanction plan and in violation of the rules, the competent authority of the said Gram Panchayat is directed to dispose of the representation of the petitioner being Annexure P7 at page 42 of the writ petition. It is made clear that the panchayat authorities shall make an inspection of the property is question in the presence of the parties. A copy of the inspection report shall be supplied to the respective parties. A hearing shall be given to the parties and thereafter a reasoned order shall be passed and communicated to all concerned. Upon conclusion of the proceedings the panchayat authorities shall act and proceed on the basis of the provisions of Section 23 of the West Bengal Panchayat Act, 1973. The question of title, possession and disputes involved in the partition suit,

shall not be gone into. The parties are entitled to make their appropriate submissions before the authority concerned.

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

The petitioner will also be at liberty to approach the appropriate Civil Court on the allegation of violation of the injunction order.

This Court has not gone into the merits of the claims and counter-claims of the parties and the entire issue shall be decided by the panchayat authorities in accordance with law.

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.)