

09.12.2021
Court No. 19
Item no.19
CP

WPA 15510 of 2021

“Maa Manasha Mandir” Trust
Vs.
The State of West Bengal & ors.

Mr. Prabhat Kumar Singh
Mr. Souri Ghosh

.....for the petitioner.

Sk. Mujibar Rahman
Mr. Amita Lal Chatterjee

...for the State.

Affidavit of service is taken on record.

Despite service none appears either on behalf of the panchayat authorities or on behalf of the respondent nos. 7 and 8. The track records indicate that the said respondents have been served.

The petitioner is a religious trust. According to the petitioner, the respondent nos. 7 and 8 have been constructing over a piece of land corresponding to L.R. Dag Nos. 1842 and 1843, pertaining to L. R. Khatians Nos. 153, 3970 and 7187, of Mouza – Gurgram, J.L. No. 28, District – Purba Medinipur, Pin 721601. The petitioner claims to be co-owners of the said property along with the respondent nos. 7 and 8. It is submitted that the respondent no. 7 is a minor and has been impleaded through his father and natural guardian.

The petitioner claims that a partition suit is pending between the parties being Title Suit No. 24 of 2016 before the learned Civil Judge, Senior Division, 2nd Court at Contai. It is further submitted that the portion of the land over which the construction has been allegedly made, without any permission, has been classified as 'Jal' in the record of rights. Without any order of conversion from the appropriate authority, the said user of the said land has been illegally converted by the said respondents.

An objection dated September 1, 2021, has been filed before the authorities including the Pradhan, Gurgram Gram Panchayat.

As the allegation is of unauthorized construction, the writ petition is disposed of with a direction upon the competent authority of the Gurgram Gram Panchayat to dispose of the complaint of the petitioner in accordance with law upon hearing the petitioner and the respondent nos. 7 and 8 and all other co-sharers who may have a claim over the property in question.

It is made clear that during such process an inspection of the premises shall be made. Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the parties. If the parties fail to appear at the time of inspection, the same shall be carried out in their absence. The

report of the inspection shall be prepared along with the sketch map to indicate the extent and nature of the unauthorized construction, if any, and handed over to the parties.

The parties must also be allowed to file their written objection/version to the said report and make oral and documentary submissions as also adduce evidence in support of their contentions before the competent authority.

A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the panchayat authorities will proceed as per law.

The court has not gone into the merit of the claims and counter-claims of the parties.

The question of title, possession and encroachment etc. shall not be decided by the panchayat authorities. The enquiry of the panchayat authorities shall be restricted to detection of unauthorized construction and the consequences that should follow upon detection of such unauthorized construction.

The petitioner shall also be at liberty to approach the appropriate authorities on the allegation of illegal and unlawful conversion of the land in question.

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

If it is found on inspection, that illegal construction is still going on, as allegedly, in that case, the panchayat authorities shall be at liberty to take such interim measures as permissible under the 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.)