

06.08.2021
Court No. 19
Item no.05
CP

WPA 9449 of 2020

Biswajit Kumar Das
VS
The State of West Bengal & ors.

(via video conference)

Md. Younush Mondal

.....for the petitioner.

Mr. Sabyasachi Mukherjee

....for the respondents 6 to 8.

Mr. Subhabrata Datta
Mr. Benazir Ahmed

.....for the State.

Despite service none appears on behalf of the
pradhan, Deganga – 1 Gram Panchayat.

It is the contention of the petitioner that the
respondent nos. 6 to 8 have been raising
unauthorised construction by illegally engroaching
into a portion of the land of the petitioner. The land
in question is situated at Plot No. 583, J. L. No. 30,
Mouza-Deganga, P.S. Deganga, Dist-North 24
Parganas. It is the contention of the petitioner that
the petitioner became owner of the said land by
purchase upon execution of a registered deed of
conveyance dated July 2, 2020. It appears that
alleging such encroachment and illegal construction
Title Suit No. 299 of 2020 has been filed. The said

Title Suit is pending before the learned Civil Judge (Junior Division), 1st Court at Barasat. It is alleged that although the petitioner has made several complaints before the pradhan of Deganga – 1 Gram Panchayat, no steps have been taken by the said authority.

Learned advocate for the respondents 6 to 8 submits that a civil suit is pending on the self-same cause of action. He further submits that the question of encroachment into the lands of the petitioner did not arise and the said respondents have not raised any illegal construction.

The learned advocate for the State respondents appears before the court and submits on instruction from the concerned Block Development Officer that the alleged land over which the construction has been made is a private land recorded in the name of one Kazi Azhar Jaman and others.

From the report filed by the Block Development Officer, it appears that the panchayat authorities had informed that no permission for construction of any building on the said plot had been granted to any person.

Having considered the rival contentions of the parties, this court is of the opinion that the question of title of the petitioner and the encroachment over the property are not to be decided by the panchayat

authorities. The same shall be decided in the civil suit, if the civil suit is still pending.

However, with regard to the allegations of unauthorized construction in the absence of sanctioned building plan or in the absence of permission from the appropriate authority, it is the panchayat authorities who should ensure that illegal construction does not take place.

Under such circumstances, the writ petition is disposed of with a direction upon the competent authority of Deganga – 1 Gram Panchayat to act and proceed in accordance with law with regard to the alleged illegal construction. An inspection of the premises shall be held in the presence of the petitioner as also the representative of respondent nos. 6 to 8. If it is found that there are illegal constructions, then the panchayat authorities shall act and proceed in accordance with law. A hearing shall be given to the parties concerned and a reasoned order shall be passed. The authorities shall reach the proceedings to its logical conclusion as per the West Bengal Panchayat Act, 1973.

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

With the above observations, this writ petition is disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)