

S/L 17
20.09.2021
Court. No. 19
GB

WPA 11675 of 2020

Maurjan Molla
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Mahim Sasmal.

...for the Petitioner.

*Mr. N.C. Bihani,
Mrs. Papiya Banerjee Bihani.*

...for the State.

*Mr. S.M. Obaidullah,
Mr. Asit Nayek.*

...for the Respondent Nos.8 to 12.

The writ petitioner alleges that the respondent nos.8 to 12 have been constructing unauthorizedly on Dag Nos.285, 286, 301 and 199 of Mouza – Bokultala, pertaining to J.L. No.52, Khatian No.144, P.S. Jibontala, District – South 24 Parganas.

It is alleged that the Dag Nos. 285 and 286 are ‘sali’ lands and no construction can be permitted on such lands without change of user. It is further submitted that as the Panchayat authorities did not take steps on the basis of the complaint lodged by the petitioner alleging such unauthorized construction, the Block Development Officer scheduled meetings of the Public Grievance Redressal Board on various dates, but the said meetings did not result in any positive outcome.

Mr. Obaidullah, learned advocate appearing on behalf of the respondent nos.8 to 12 submits that the dispute regarding title and change of user cannot be decided by the Panchayat authorities. It is submitted that the respondent nos.8 to 12 are owners of the land and there is no unauthorized construction.

Having heard the learned advocates for the respective parties, the writ petition is disposed of with a direction upon the appropriate authority of the Tambuldaha –I Gram Panchayat to act and proceed in terms of Section 23 of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the 'said Act') and reach the proceeding to its logical conclusion, only with regard to the allegation of unauthorized construction. The question of title, encroachment and change of user cannot be decided by the Panchayat authorities.

Although, the Block Development Officer and the District Magistrate have been apprised of such dispute between the parties, it is the Panchayat authority, who has to enquire into the question of unauthorized construction. If any unauthorized construction is detected, the matter has to be referred to the Sub-Divisional Officer to hear and conclude the demolishing proceeding as per Section 23(6).

In this case, the Panchayat authorities have not initiated any proceeding under Section 23 of the said Act. An inspection shall be held in presence of the parties. The report of the inspection shall be supplied to the parties. A hearing

shall be given to the parties and a reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the inspection and at the hearing, further steps shall be taken in accordance with law. The decision of the Panchayat authorities as per this order will be limited to whether construction has been made in absence of any permission or in deviation of the plan.

This Court has not gone into the merits of the claims and counter claims of the petitioner.

The entire exercise shall be completed within a period of four months from 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.)