

30.03.2022

Sl. No. 21

ss

W.P.A. 516 of 2022

Sri Tapan Roy

Vs.

The State of West Bengal & ors.

Mr. Nital Chandra Saha
Mr. Abhijit Ch. Majumdar
... for the petitioner

Mr. A. K. Guha
Mr. N. Ghosh Dastidar
... for the State

Despite service, none appears on behalf of the respondent no.6.

The petitioner claims to be a co-sharer with the respondent no.6 of LR Dag No.100, pertaining to LR Khatian No. 1553, of Mouza Malipukuria. It is alleged that the petitioner purchased a portion undivided property from the respondent no.7. The share of the respondent no.7, which was purchased, had been demarcated in the deed of conveyance.

The allegation is that the respondent no.6 has raised such an unauthorised construction on the portion occupied by the respondent no.6, by violating the building rules.

It is alleged that the mandatory side space as required by the rules had not been kept vacant. Complaint to that effect was lodged with the concerned Gram Panchayat. The Panchayat authorities did not take any steps. Hence this writ petition.

The police authorities have filed a report, which is taken on record. The police authorities went to the spot and detected that there has been a dispute between the parties.

The writ petition is disposed of in the absence of the respondent nos.6 and 7, as this Court is not inclined to pass any mandatory orders adverse to the interest of the said respondents.

This Court relegates the entire dispute to the Panchayat authorities, who are empowered under law, to take cognizance of such complaint to act and proceed in accordance with law.

Under such circumstances, this writ petition is disposed of with a direction upon the competent authority of the Sonarpur-II Gram Panchayat to dispose of the complaint of the petitioner made through his learned Advocate dated January 3, 2022, in accordance with law. While disposing of the matter, the Panchayat authorities will adopt the following procedure :-

- a) An inspection of the premises shall be conducted.

Such inspection shall be held in the presence of the petitioner and the respondent nos.6 and 7, within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondent nos.6 and 7. If the parties are not available to accept notice, the authorities shall affix the notices of hearing and

inspection at conspicuous places in their respective premises.

- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take interim measures by stopping such construction.
- c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties.
- e) A hearing shall be given to the petitioner and the respondent nos.6 and 7. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions, before the competent authority. All points raised by the parties shall be decided. All documents filed by the parties, if any, shall be exchanged.
- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion, in terms of the statute.

The court has not gone into the merits of the claims and counter-claims of the parties and the issues involved shall be decided independently. The question of title and boundary dispute shall not be decided.

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

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)