

S/L 65
26.09.2022
Court. No. 19
sn

W.P.A.723 of 2022

Noor Islam Laskar
VS
The State of West Bengal & Ors.

Md. Yusuf Ali

...for the Petitioner.

Mr. Srijan Nayak
Ms. Rituparna Maitra

...for the State.

Mr. Rampada Pal

...for the Respondent No.6&7

Affidavit-of-service filed in Court today, be kept with the record.

The petitioner alleges that the respondent nos.6&7 have raised an unauthorized construction on plot no.330 of mouza Garakupi. The petitioner also claims ownership in respect of the land in question.

Learned advocate for the respondent nos.6&7 denies the claim of ownership. It is the specific contention of the said respondents that the building had been constructed long ago, by following the due process of law. It is submitted that the construction is more than 25 years old. He raised a plea that the construction was existing even before West Bengal Panchayat Act,1973 has not been promulgated.

Without going into the disputes raised, this Court is of the view that the justice would be sub served if the representation of the petitioner dated December 2, 2021 is disposed of by the permission granting authority/gram panchayat, in accordance with law.

While doing so, the following procedure shall be adopted:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.6 and 7. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.6 and 7 and all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the 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 had been continuing, the authorities may take such 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. The question of right, title and possession shall not be decided by the panchayat authorities.
- 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 either party, will be decided. The

age of the construction shall be ascertained as it is the specific contention of the respondent Nos. 6 and 7 that the construction had existed since long.

- 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 Section 23(5) of the West Bengal Panchayat Act, 1973.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of four months from date of receipt of the complaint of the petitioner.

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.)