

15.2.2022
Ct. No.19
Sl.no.15

W.P.A. No. 352 of 2020

Swapan Patra

Vs.

The State of West Bengal & Ors.

Mr. M.A. Samad
Ms. Nayeab Mulla
....for the petitioner

Despite service, none appears on behalf of any of the respondents. Affidavit of service is taken on record. The writ petition is taken up for hearing in the absence of the respondents.

The petitioner has alleged inaction on the part of the competent authorities of the Brindabanchak Gram Panchayat, District Purba Medinipur in disposing of the complaint of the petitioner, which is Annexure P/3 to the writ petition.

The allegation is that the respondent no.6, who is the co-sharer of the L.R. plot no. 714, Mouza Brindabanchak has constructed a building on a portion of the said plot without due permission from the panchayat authorities.

Although, none appears on behalf of the respondent no.6, this Court is of the opinion that the writ petition can be disposed of in absence of the said respondents as the matter is being relegated to the appropriate authority under the law for a decision. It is the duty of the panchayat authorities to ensure that no unauthorised constructions

take place and the said authorities are empowered to take steps against such unauthorised constructions.

This writ petition is disposed of with a direction upon the competent authority of the Brindabanchak Gram Panchayat to dispose of the complaint of the petitioner in accordance with law.

While disposing of such complaint, the panchayat authorities shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the parties, within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondent no.6. If the parties are not available to accept notice, the authorities shall affix the notice 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 is without permission and 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 petitioner as also the respondent no.6.

e) A hearing shall be given to the petitioner and the respondent no.6. 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.

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 the issues involved shall be decided independently.

g) The question of title, encroachment etc. shall not be gone into by the Corporation.

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

This 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.)