

12.05.2022
Sl. No.21
srm

W.P.A. No. 134 of 2019
Shambhu Prosad Bhakat
Versus
The State of West Bengal & Ors.

Mr. Raghunath Chakraborty,
Mr. Mahaboob Ahmed
...for the Petitioner.

Mr. Tauhid Khan,
Mr. Sirendu Sinha Roy
...for the Respondent No.6.

Mr. Bikash Chandra Das
...for the Respondent No.7.

Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata
...for the State-respondents.

In view of the admission by Mr. Chakraborty, learned Advocate for the petitioner, that the respondent No.7 has wrongly been impleaded in the case, the name of the respondent No.7 is expunged. This proceeding shall continue against the respondent No.6 apart from the other authorities. Office is directed to carry out such deletion.

The petitioner alleges that the respondent No.6 has raised certain unauthorised construction on LR Dag No.651 pertaining to Khatian No.293, J.L. No.72 under the

jurisdiction of Haripal Asutosh Gram Panchayat, District Hooghly.

According to the petitioner, the said construction has been made in violation of the provision of Rule 24(1) of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004. It is the specific case of the petitioner that the required mandatory side spaces along the said construction has not been maintained. Accordingly, a complaint was lodged before the panchayat authority. Allegation is that no steps have been taken in respect of such alleged unauthorised construction.

Mr. Khan, learned Advocate appearing on behalf of the respondent No.6, submits that in compliance of an undertaking given by the respondent No.6 before the panchayat authorities, the construction of the respondent No.6 has been made at a distance of three ft. from the premises of the petitioner. He further submits that the allegations are false and frivolous. Thus, the panchayat authorities have not taken any steps in this regard. A copy of such undertaking and a copy of the sanction plan are filed before this Court.

Under such circumstances, this Court is of the view that the only issue to be looked into is whether the alleged three ft. side space has been maintained by the respondent

No.6 or not, while raising the construction. Such dispute cannot be adjudicated without holding a physical inspection of the premises of the petitioner and the respondent No.6.

The writ petition is disposed of with a direction upon the panchayat authorities to dispose of the complaint of the petitioner dated November 29, 2018 in accordance with law, upon holding an inspection in the presence of the parties and upon granting an opportunity of being heard. A reasoned order shall be passed in accordance with law. The order shall be communicated to the parties.

Needless to mention, if the authorities find that the undertaking given by the petitioner is violated, steps shall be taken in accordance with law.

This Court has not gone into the merits of the claims and counterclaims of the parties and all points will be decided by the panchayat authorities, independently. The entire exercise shall be completed within two months.

The question of title, boundary dispute, etc. shall not be decided by the authority.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)