

S/L 67
26.7.2022
Court. No. 19
sn

W.P.A.1032 of 2022

Sahabuddin Mondal
VS
The State of West Bengal & Ors.

Mr. Amit Ghosh
Mr. Suparno Ghosh

...for the Petitioner.

Mr. Manas Kr.Das
Mr. Asraf Mondal

...for the Respondent No.9

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

The petitioner alleges unauthorized construction by the respondent no.9 on LR dag no.1848 of mouza Tehatta.

Learned advocate for the respondent no.9 denies such allegation. It also appears that the petitioner has claimed title over the property on which part of the construction has been made.

The rival claims to title, allegations of encroachment and the boundary dispute cannot be decided by this court.

However, as the petitioner has stated that the respondent No. 9 did not have any sanction or permission for raising construction, such issue shall be decided by the permission granting authority, in accordance with law.

The petitioner has also approached the Pradhan, Tehatta Gram Panchayat by filing a representation dated January 11, 2022. Such representation shall be disposed of by the concerned 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 no.9. An advance notice of the inspection shall be served upon the petitioner and the respondent no.9 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 no.9. 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.

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.)