

17.03.2022
Sl. No. 37
ss

W.P.A. 1130 of 2022

Jakir Hossain Khan
Vs.
The State of West Bengal & ors.

Mr. Tanmoy Chowdhury
Ms. Ritoprita Ghosh
... for the petitioner

Mr. Susanta Pal
Mr. Prabir Kumar Ray
... for the State

Mr. Arabinda Manna
... for the respondent no.4

Ms. Joyita Roy
... for the private respondent

Affidavit of service filed in Court is taken on record.

The petitioner has alleged that the respondent nos. 5 to 7 have raised some unauthorised construction on Plot Nos.4400, 4401 and 4420.

Learned Advocate for the Panchayat authorities also submits that some unauthorised construction has been detected.

Learned Advocate appearing on behalf of the respondent nos.5 to 7 submits that the Panchayat authorities have already called the respondents for a hearing. She also submits that the construction has been made on the plots, which are exclusively owned by the said respondents.

The question of title, possession, ownership of the plots in question are not to be gone into either by

this Court or by the Panchayat authorities. As the Panchayat authorities have detected some unauthorised construction and have also called the parties for a meeting, this Court is of the opinion that the complaint of the petitioner must be disposed of in accordance with law and reached to its logical conclusion in terms of Section 23 of the Panchayat Act by the Panchayat authorities in the following manner:

- (a) The competent authority of the Badanganj-Fului-II Gram Panchayat shall cause an inspection of the premises in question in the presence of the parties in order to ascertain whether there are any unauthorised constructions and also to ascertain the extent and nature of the unauthorised construction, if any.
- (b) A copy of the inspection report shall be handed over to the respective parties.
- (c) The petitioner, the respondent Nos.5 to 7 shall be given a hearing.
- (d) The parties shall be allowed to file their written versions and adduce oral and documentary evidence in support of their respective claims at the hearing.
- (e) A reasoned order shall be passed and communicated to all concerned.

(f) Needless to mention, the entire proceedings shall be reached to its logical conclusion in terms of the provisions of Section 23 of the Panchayat Act.

It is made clear that the question of title, encroachment, boundary disputes, etc. shall not be gone into by the panchayat authorities. The enquiry of the panchayat authorities will be limited to the question as to whether construction has been made in the absence of any permission and/or in deviation of the permission and the rules. While disposing of the complaint, if it is found that the construction is going on illegally, the panchayat authorities shall be at liberty to impose restrictions and take such interim measures as permitted under the 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 a period of four months from the date of communication of this order.

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.)