

4.4.2022  
Court No. 19  
Item No.18  
sn

WPA 1155 of of 2022

Partha Ghosh @ Partha Kumar  
Ghosh & Anr.

Vs.  
The State of West Bengal & Ors.

Mr. Rajdeep Bhattacharyya  
Mr. Sk. Abdul Mannan  
.....for the petitioners

Mr. Santanu Kr.Mitra  
Mr.Subhabrata Das ..for the State

Despite service, none appears on behalf of the respondent nos. 7 to 9. Affidavit of service is kept on record. The State respondents are represented.

The allegation is that the respondent no.9 has raised certain unauthorized constructions on R.S.Dag no. 1802, corresponding to L.R. Dag No. 1932, Mouza Krishnapur, Block Chanditala II under Garalgacha Gram Panchayat, District Hooghly.

It has been alleged that the said construction has been made without any permission from the authorities. A complaint was lodged by the petitioners through their learned advocate on December 13, 2021 before the Panchayat authorities. The police authorities and the Block Development Officer concerned were also approached.

It is alleged that the Panchayat authorities had not taken any step, despite such complaint.

Although none appears on behalf of the respondent nos.7 to 9, this Court deems it fit to dispose of the writ petition with a direction upon the competent authority of the Garalgacha Gram Panchayat to act and proceed on the basis of the complaint filed by the learned advocate for the writ petitioners dated December 13, 2021, in accordance with law. The proceeding shall be reached to its logical conclusion.

The procedure to be adopted by the Panchayat authorities is as follows :-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent no. 9 within three weeks. Advance notice of the inspection shall be served upon the petitioners and the respondent no. 9 and all other interested parties. 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 was without permission and was 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, if prepared, shall be handed over to the parties.

e) A hearing shall be given to the petitioners and the respondent no. 9. The parties must also be allowed to furnish their written objection/versions 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 the statute. The court has not gone into the merits of the claims and the issues involved shall be decided independently.

The question of title and boundary disputes shall not be decided by the panchayat authorities.

Disposal of the writ petition in the absence of the respondent no. 9, will not cause any prejudice, in view of the fact that the Court has

relegated the entire matter to the competent authority of the Garalgacha Gram Panchayat who shall proceed as per Section 23 of the West Bengal Panchayat Act, 1973, upon granting adequate opportunity to each of interested parties to participate in the proceeding.

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

Accordingly, the writ petition is disposed of.

There will be however no order as to costs.

All parties are directed to act on the basis of server copy of this order and/or the learned advocate's communication.

**(Shampa Sarkar, J.)**