

S/L 9
23.02.2022
Court. No. 19
sn

W.P.A. 1646 of 2022

Jagannath Panja
VS
The State of West Bengal & Ors.

Mr. N. Srinivas
Mr. Manoj Kr. Singh ... for the Petitioner.

Mr. Gautam Banerjee
Mr. Tarak Nath Sarkar
... for the Respondent no.6

Mr. Pantu Deb Roy
Mr. Pannalal Bandopadhyay ..for the State

The petitioner has alleged unauthorized construction by the respondent no.6. The petitioner and the respondent no.6 are brothers and they have been occupying their respective portions on Dag No.626, Mouza Sodepur, District Hooghly.

The allegations are that the respondent no.6 made some unauthorized construction on a portion enjoyed by the said respondent. The pleadings are that the parties have been enjoying their portions in the undivided plot by a mutual agreement and each of the occupants had demarcated their area by construction of boundary walls. It is also submitted that a civil suit is pending between some co-sharers.

Mr. Banerjee, learned advocate for the respondent no.6 denies and disputes the allegations of unauthorized construction. He further submits that as

the partition suit is pending with regard to the self-same undivided plot between some of the co-sharers, this court must not entertain the writ petition. He also submits that all constructions have been made with the permission of the Panchayat authorities.

Mr. Pantu Deb Roy, learned Additional Government Pleader, submits that the Pradhan informed the concerned Block Development Officer that the parties were called for a hearing upon receipt of a complaint from the petitioner, but the petitioner did not attend such hearing.

Having considered the rival contentions of the parties, this writ petition is disposed of with a direction upon the competent authority of the Pursurah-II Gram Panchayat to dispose of the complaint of the petitioner with regard to the alleged unauthorized construction in accordance with law by adhering to the following procedure:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent No.6 within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondents 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 shall be handed over to the parties.

e) A hearing shall be given to the petitioners and the respondents. 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 the statute. The court has not gone into the merits of the claims and the issues involved shall be decided independently.

g) This order will not prejudice the civil suit, which is pending between other co-sharers.

h) The proceeding shall be restricted only to the allegations of unauthorised construction.

The entire exercise shall be completed within a period of six 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.)