

21.09.2022
Sl. No.77(DL)
srm

W.P.A. No. 1737 of 2022
Din Mohammad Sardar & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Soumik Banerjee,
Md. Giasuddin Mulla

....for the Petitioners.

Mr. Manas Kundu,
Mr. Debabrata Mandal

...for the State-respondents.

Mr. Anindya Bose,
Mr. Anindya Sundar Das,
Mr. Diptendu Mandal,
Mr. Nikhil Gupta

...for the Respondent Nos.6 to 9.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of any of the respondent No.3.

In this writ petition, the construction raised by the respondent Nos.6 to 9 on LR Plot No.998 of mouza Sarapul, District-North 24-Parganas, has been challenged on the ground that the same is without permission from the panchayat authorities.

The learned Advocate for respondent Nos.6 to 9, however, denies such allegation and submits that necessary permission had been granted.

The petitioners also claim title in respect of the property in question.

Admittedly, the panchayat authorities are not empowered by law to decide the question of title, encroachment, boundary dispute, etc. However, the allegation with regard to unauthorised construction has to be determined by the permission granting authority.

Under such circumstances, the competent authority of Sarapul Nirman Gram Panchayat, District-North 24-Parganas is directed to dispose of the representation of the petitioners dated January 10, 2022 in accordance with law. While doing so, the panchayat authority shall adhere to the following procedures:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of all interested parties, with 48 hours advance notice to the petitioners and all interested parties, as also the respondent Nos.6 to 9.
- b) The report of the inspection shall be prepared along with the sketch map, indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioners as also the respondent Nos.6 to 9.

- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and is continuing, the authorities may take interim measures by stopping such construction.
- e) A hearing shall be given to the petitioners and all other interested parties and the respondent Nos.6 to 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.
- 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 provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

The question of title, encroachment, boundary dispute, etc. shall not be decided by the panchayat authorities.

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

This Court has not gone into the merits of the claim and counter-claim of the parties.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)