

21.02.2022
Sl. No.11
srm

W.P.A. No. 1918 of 2022
Abdul Jabbar Khan & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Prantick Ghosh,
Mr. Siddhartha Sarkar,
Mr. Hirak Roy
...for the Petitioners.

Mr. Snehasis Banerjee
...for the Respondent Nos.2 & 3.

Mr. Akash Dutta
...for the Respondent Nos.4 & 5.

Mr. Tapas Adhikari
...for the State-respondents.

Affidavit of service is taken on record.

The writ petition has been filed challenging a communication dated January 28, 2022, which is annexure P/5 at page 22 of the writ petition. By the said communication, the Pradhan of Kotulpur Gram Panchayat, District-Bankura directed the writ petitioners to stop work on LR Dag No.2504, J.L. No.092 within Mouza-Sarishadighi, Police Station-Kotulpur, District-Bankura.

It is contention of the petitioners that the said stop work notice could not have been issued by the Pradhan of the Kotulpur Gram Panchayat on January 28, 2022 on the basis of the complaint dated January 27, 2022. It is the

specific contention of the petitioners that this Court had directed that an inspection must be held before the panchayat authorities to take any decision. It is further submitted that there is some confusion with regard to the identity of the plot.

On the basis of the complaint raised by the respondent Nos.4 and 5, this Court had directed the panchayat authorities to dispose of any complaint to be lodged by the respondent Nos.4 and 5 on the allegations of unauthorised constructions by the petitioners. This Court had also directed that if construction was going on illegally, the panchayat authorities would be at liberty to impose restrictions. The panchayat authority was further directed that the entire issue should be disposed of in the manner provided hereinbelow:

- “(a) The competent authority of the aforementioned gram panchayat shall cause an inspection of the premises in question in the presence of all the interested 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.
- (a) A copy of the inspection report shall be handed over to the respective parties.
- (b) The petitioners as also the respondent Nos.5 and the said Md. Yasin Khan shall be given a hearing.
- (c) 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.
- (d) A reasoned order shall be passed and communicated to all concerned.

(e) Needless to mention that the entire proceedings shall be reached to its logical conclusion in terms of Section 23 of the West Bengal Panchayat Act.”

Mr. Snehasis Banerjee, learned Advocate appearing on behalf of the respondent Nos.2 and 3, submits that after receipt of the complaint, a staff of the panchayat visited the premises on January 28, 2022 and having found that some construction was going on. Thereafter reported of the same and the stop work notice was issued.

The learned Advocate for the respondent Nos.4 and 5 submits that the inspection was fixed but the petitioners have refused to participate in the inspection.

Be that as it may, as this Court had already directed the panchayat authorities to take steps as per the procedure discussed hereinbelow, on the complaint of the respondent Nos.4 and 5, this Court is of the opinion that the panchayat authorities must comply with the order dated January 14, 2022 as per the procedure and while doing so, the contentions of the petitioners about the construction being done on the basis of the provisions of deemed sanction plan shall also be taken into consideration. The next date of inspection is fixed by the Court as March 1, 2022.

The identity of the plot, as raised by the petitioners, can be resolved by the parties as also the panchayat

authorities on the basis of the Mouza map and documents, which are in their possession.

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

The order of this Court will be sufficient notice to the parties. If any of the parties is absent or refused to participate, the panchayat authorities shall proceed in accordance with law.

The Court is not interfering with the stop work notice at this stage as the order passed by this Court earlier had permitted the panchayat authorities to take such step as permitted by law, if they found that unauthorised construction was going on.

The question of title of the co-sharers and allegation of encroachment, etc. shall not be looked into by the authorities.

This writ petition is, thus, disposed of.

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.)