

31.03.2022

Sl. No. 18

ss

W.P.A. 2031 of 2022

Parbati Das

Vs.

The State of West Bengal & ors.

Mr. Gautam Banerjee

Mr. Anjan Dutta

... for the petitioner

Mr. Lalit Mohan Mahata

Mr. Rudranil De

... for the State

Ms. Suchana Banerjee

... for the respondent no.6

Affidavit of service filed in Court is taken on record.

The petitioner claims to be the owner in possession of a portion of a plot of land situated at L.R. Dag No.324, pertaining to L.R. Khatian No.4257 under Mouza Baharan within Gangatikuri Gram Panchayat in the District of Burdwan.

The contention of the petitioner is that the Panchayat authorities had permitted the petitioner to construct a single-storeyed structure on an area measuring about 543 Sq.ft. out of total 6 decimals of land. Suddenly, the Pradhan of Gangatikuri Gram Panchayat issued a 'stop work' notice on December 6, 2021.

The petitioner upon enquiry came to know that such notice was a consequence of some orders passed in Title Suit No.46 of 2017 pending before the learned Civil Judge, Senior Division, Katwa, District Burdwan. The order-sheet of the entire suit has been annexed to the writ petition in order to point out that the petitioner is not a defendant in the suit.

It is further submitted that the order did not reflect that any injunction had been passed, against such construction.

It is further submitted that even a partition suit is pending with regard to the selfsame property in question, the construction may be made subject to the result of the partition suit, but for the time being, as the residential accommodation of the petitioner has been destroyed during *amphan*, the dwelling house has become uninhabitable, the construction must be allowed in accordance with the permission.

Ms. Banerjee, learned Advocate appearing on behalf of the respondent no.6 submits that the petitioner has been added as a defendant in the suit. The Panchayat authorities had time and again requested the petitioner to appear before the authorities with regard to allegation made by the petitioner. The petitioner has failed to appear before the concerned authority.

The information slip supplied by the learned civil court, is taken on record.

Having heard the rival submissions of the parties, this writ petition is disposed of with a direction upon the competent authority of Gangatikuri Gram Panchayat to dispose of the representation of the petitioner dated January 25, 2022, in accordance with law upon hearing the petitioner as well as the respondent no.6.

The police authorities have also submitted a report, from which it appears that a civil suit is pending.

While considering the issue, the Panchayat authority will take into consideration the orders passed in the civil court.

The contention of the petitioner is that the suit does not have any nexus with the alleged permission granted for the construction and the authority shall take into consideration, whether the construction can be allowed in accordance with law. The petitioner requires a roof above her head.

The reasoned order shall be passed and communicated to the parties.

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

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)