

23.03.2022
Court No. 19
Item no.08
CP

W.P.A. No. 2365 of 2022

Ashis Kumar Dey
Versus
Prodhan, Deshbandhu Gram Panchayat & Ors.

Mr. Ankit Agarwala
Ms. Alotriya Mukherjee
Mr. Robin Basu

...for the Petitioner.

Despite service, none appears on behalf of the respondents.

The petitioner alleges inaction on the part of the Pradhan, Deshbandhu Gram Panchayat. The petitioner lodged a complaint with regard to unauthorized construction raised by the respondent no. 4. The petitioner and the respondent no. 4 are co-sharers. It is alleged that without obtaining any permission from the concerned gram panchayat, the respondent no. 4 has started raising construction, by violating the building rules. The mandatory space required to be kept between two premises has been encroached upon unauthorizedly. Prayer is made before this court for a direction upon the Pradhan, Deshbandhu Gram Panchayat to act and proceed on the basis of the complaint lodged by the petitioner.

Although none appears on behalf of the respondents, the matter is being disposed of in their

absence as the entire issue is being relegated to the adjudicating authority for a decision in accordance with law upon granting adequate opportunity to all the parties. While disposing of the complaint of the petitioner made through his learned advocate dated January 20, 2022, the competent authority of the Deshbandhu Gram Panchayat shall adhere to the following procedures:

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the petitioner and the respondent no. 4.
- 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 petitioner as also the respondent no. 4.
- d) A hearing shall be given to the petitioner and the respondent no. 4. 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.
- e) 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 counter-claims of the parties and the issues shall be decided independently.

The questions of title, possession and boundary disputes etc. shall not be decided by the panchayat authorities. The only question to be decided by the panchayat authorities would be whether the construction has been made without any permission and/or in violation of either the building rules or the plan.

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

The writ petition is, thus, disposed of. There shall be no order as to costs.

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

(Shampa Sarkar, J.)