

31.03.2022
Court No. 19
Item no.22
CP

W.P.A. No. 2490 of 2022

Tapan Mondal
Versus
The State of West Bengal & Ors.

Mr. Gazi Faruque Hossain
...for the Petitioner.

Ms. Sipra Majumdar
Ms. Prativa Ghatak

...for the State.

Mr. Hasanuz Zaman
Mr. M. Sasmal

....for the respondent no. 6.

The allegation of the petitioner is that the respondent no. 6 has constructed a structure on a portion of L.R. Dag No. 891 of Mouza – Subuddhipur along with a boundary wall, without any permission. The allegation is that the record of rights reveal that L.R. Dag No. 891 is classified as a ‘Bagan’.

According to the petitioner, the West Bengal Panchayat (Gram Panchayat) Administration Rules 2004, provides that permission for construction can only be given on a ‘Bastu’ land.

Mr. Sasmal, learned advocate appearing on behalf of the respondent no. 6, produces a plan which has been approved for construction by the concerned gram panchayat. Records with regard to payment of fees etc. have also been produced before

the court. It is submitted that upon permission granted by the panchayat authorities, such construction has been made.

Having heard the rival contentions of the parties, this court is of the opinion that as the petitioner has raised a contention with regard to the classification of the land and as the conversion of the said land to 'Bastu' land is not before the court, the complaint of the petitioner must be disposed of by the permission granting authority, in accordance with law.

Under such circumstances, the writ petition is disposed of with a direction upon the competent authority of the Madarat Gram Panchayat to act and proceed in accordance with law by adopting the following procedure:

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the interested parties, with 48 hours advance notice to the petitioner and the respondent no. 6.
- 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. 6.

- d) A hearing shall be given to the petitioner and the respondent No. 6. 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 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.)