

31.10.2022
Sl. No.64(DL)
srm

W.P.A. No. 3022 of 2022

Pranab Kumar Bakuly

Vs.

The State of West Bengal & ors.

Mr. Sk. Toslim Ali,
Ms. Saba Parween

....for the Petitioner.

Mr. Gausul Alam,
Md. Yusuf Ali

...for the State-respondents.

Mr. Soumya Basu Roy Chowdhury,
Mr. Sarbananda Sanyal,
Ms. Poulami Chakraborty

...for the Respondent Nos.6 & 7.

Affidavit of service is taken on record.

The petitioner alleges that the respondent Nos.6 to 8 had raised a construction on LR Dag No.473 pertaining to mouza Guzarpur, Amta, Howrah. It is alleged that the land belongs to the petitioner's father and the construction has been made without any sanction.

The learned Advocate for the respondent Nos.6 and 7 denies such allegations. It is stated that the portion occupied by the respondent Nos.6 and 7 is still vacant and no construction has been made. It is also submitted that some portions of the said land belong to the said

respondents. Reliance has also been placed on certain photographs to show that the land is still completely vacant.

These disputed questions of fact cannot be gone into by the writ court. The permission granting authority, that is, the panchayat authorities are empowered under the law to decide the issue of unauthorized construction.

Under such circumstances, the writ petition is disposed of with a direction upon the Amta Gram Panchayat to dispose of the complaint of the petitioner, which is annexure P3 at page 14 to the writ petition, in accordance with law. While doing so, the following procedure shall be adopted by the authority empowered by the law to take steps in this regard:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of all parties, with 48 hours advance notice to the petitioner and the respondent Nos.6 and 7.
- 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 interested parties.

- 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 petitioner and all the parties. 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 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 basis of the server copy of this order.

(Shampa Sarkar, J.)