

27.09.2022
Sl. No.53(DL)
srm

W.P.A. No. 3485 of 2022

Blue Pearls Arch & Developers Pvt. Ltd.

Vs.

The State of West Bengal & Ors.

Sk. Md. Ismail,
Sk. Aktar Hossain

....for the Petitioner.

Mr. Bhaskar Ghosh,

...for the Respondent Nos.10 to 15.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.1 to 9.

The petitioner has alleged unauthorised construction by the respondent Nos.10 to 15 on LR Dag No.316 pertaining to LR Khatian No.2179 within mouza Sankaridaha, District-Howrah. The petitioner alleges that such construction is in violation of the order dated January 21, 2020 passed in Title Suit No.27 of 2020 by the learned Civil Judge (Senior Division), 1st Court at Howrah. The petitioner further states that the Pradhan of Begri Gram Panchayat, District-Howrah, issued a notice on February 8, 2022 upon the respondent No.9/developer to stop such construction. The respondent No.9 was also directed to appear at a meeting to be held on February 11, 2022.

The learned Advocate for the respondent Nos.10 to 15 submits that the respondent No.9 is no longer the contractor and they were not aware of the stop work notice. The respondent No.9 was the contractor for a limited period. That the Domjur Panchayat Samity had granted a sanction in favour of such construction. A copy of the plan has been produced before this Court. It appears that the Executive Officer, Domjur Panchayat Samity and the Sub-Assistant Engineer, Domjur Panchayat Samity had granted the provisional sanction in favour of one Mintu Mondal, with certain terms and conditions. One such condition was that conversion of the land must be obtained from the appropriate authority and the construction should be carried out under the supervision of the Domjur Panchayat Samity's registered LBS.

These disputed questions of facts cannot be decided by the Court. Thus, the writ petition is disposed of with a direction upon the Executive Officer, Domjur Panchayat Samity to make an enquiry into the matter and come to a finding upon hearing the petitioner and the respondent Nos.9 to 15. The writ petition be treated as a representation of the petitioner. If it is found that the allegations of the petitioner are correct, in that case, a reasoned order shall be passed and communicated to the panchayat authorities.

The nature and extent of the unauthorised construction shall be indicated in the order. Thereafter, steps shall be taken in accordance with the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973 with regard to the unauthorised/illegal construction by the panchayat authorities. If the allegations of the petitioner appear to be incorrect, in that case, a reasoned order shall be passed to that effect by the Domjur Panchayat Samity and communicated to the petitioner and others.

The allegations with regard to the violation of the order of the learned civil court, encroachment, etc. shall not be decided by the authority.

The petitioner is directed to add the Executive Officer of Domjur Panchayat Samity as the respondent No.16 in this writ petition, here and now. A copy of the writ petition along with a server copy of this order be served upon the said added respondent.

The writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)