

16.11.2022  
Court No. 19  
Item No.04  
CP

WPA No. 3832 of 2022

Swapan Kumar Ray  
Vs.  
The State of West Bengal & Ors.

Mr. Anjan Dutta

...for the petitioner.

Mr. Pantu Deb Roy  
Mr. Subrata Guha Biswas

...for the State.

The fifth and the sixth line of the order dated September 28, 2022 be corrected as follows:

“The allegation is that the construction is 8 ft. wide and the plinth area covers more than 40 ft. in length.”

The other part of the order dated September 28, 2022 is unaltered.

The department is directed to take steps accordingly.

Despite service, none appears on behalf of the respondent nos. 4 and 7. As the Court is not inclined to pass mandatory directions against the said respondents, but is relegating the entire dispute for adjudication by the competent authority under law, the writ petition is taken up in their absence.

The petitioner alleges that the pradhan of Beonta 1 Gram Panchayat failed and neglected to take steps for demolition of an allegedly illegal construction raised by

the respondent no. 7 on Dag No. 973, pertaining to Khatian No. 2727 within Mouza – Krolberia. The allegation is that the respondent no. 7 started constructing a double storeyed house which was more than 40 ft. long and 8 ft. wide. A further allegation is that the mandatory open spaces required to be kept as per the Building Rules, have not been maintained.

Under such circumstances and upon perusing the allegations as mentioned hereinabove, this court is of the opinion the permission granting authority must dispose of the representation/objection of the petitioner dated February 14, 2022, in accordance with law. While disposing of the said representation, the Beonta 1 No. Gram Panchayat shall adopt the following procedure:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no. 7. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 7 and all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.
- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without

permission and was continuing, the authorities may take such interim measures by stopping such construction.

- c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties.
- e) A hearing shall be given to the petitioner and the respondent no. 7. 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. All points raised by either party, will be decided.
- 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 West Bengal Panchayat Act, 1973.

The court has not gone into the merits of the claims.

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

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

A copy of the writ petition along with a server copy of this order be served upon the concerned gram panchayat for necessary compliance of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

**(Shampa Sarkar, J.)**