

28.09.2022
Court No. 19
Item 107
CP

W.P.A. No. 4838 of 2022

Dipak Jana

Vs.

The State of West Bengal & Ors.

Mr. Dhiman Ray
Mr. Dip Chanda

....for the petitioner.

Mr. Malay Singh
Ms. Neelam Singh

....for the State.

Despite service, none appears on behalf of the respondent nos. 5 to 7.

As the Court is not inclined to pass mandatory directions as prayed for in the writ petition, 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 respondent no. 7 has raised some construction on Dag No. 171. The land allegedly belongs to the petitioner. It is submitted that the land has not been classified as a homestead/bastu land. It is further alleged that the said construction is being raised without any permission from the panchayat authorities.

The issues raised in this writ petition are whether the construction could be made on the land

which is classified as 'Jal' and whether the permission from the Bural Gram Panchayat had been obtained for such permission.

As it is the specific case of the petitioner that the construction is being made from the funds released in favour of the respondent no. 7 under the PMAY Scheme, the provisions of Section 23 of the West Bengal Panchayat Act, 1973 will not be per se applicable.

However, if the construction is made on a land which is classified as 'Jal', in that event, without any conversion, whether such construction could be raised, is an issue to be probed into. The other issue is whether any documents of title was disclosed by the respondent no. 7 in respect of the plot, as per the eligibility criteria.

It is submitted that the petitioner is the owner of the said land along with his brothers. The respondent no. 7 could not have been found eligible for the benefit under the PMAY Scheme, as he did not possess any title deed.

It appears that the petitioner has already approached the Block Development Officer, Sabang Development Block by filing an objection. The said objection shall be considered, in accordance with law, upon granting an opportunity of hearing to the

petitioner, his brothers and also the respondent no. 7.

If the allegations of the petitioner appear to be correct, a reasoned order shall be passed and communicated to all. Remedial measures shall be taken. If the allegations are found to be incorrect, such reasons shall be disclosed in the order.

This court has not gone into the correctness of the statements made by the petitioner and has also not made any observation with regard to the title of the respondent no. 7 in respect of the said land. All such issues shall be decided by the competent authority.

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

The writ petition is disposed of accordingly.

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.)