

S/L 15
12.05.2022
Court. No. 19
GB

WPA 5726 of 2022

Sri Ramswarup Mahata & Ors.
VS
The State of West Bengal & Ors.

*Ms. Chittapriya Ghosh,
Mr. Samir Kumar Adhikari,
Ms. Priyanka Saha.*

...for the Petitioners.

*Ms. Chaitali Bhattacharyya,
Ms. Sukla Das Chandra.*

...for the State.

*Mr. Subhas Chandra Atha,
Ms. Payel Paramanik.*

...for the Respondent Nos.10 & 11.

Affidavit-of-service filed in Court today, be kept with the record.

The petitioners allege that respondent nos.10 and 11 have raised a concrete structure on Dag No.530, J.L. No.40, Mouza-Piralgari without any permission from the panchayat authorities.

It is submitted on behalf of the respondent nos.10 and 11 that the construction has not been made on Dag No.530. That a temporary structure has been made on a P.W.D. road. Such construction does not require permission from the panchayat authorities.

Ms. Bhattacharyya, learned senior Government advocate submits that in any event without any permission from the P.W.D. authorities, such construction could not have been raised, even on P.W.D. road.

To such submissions of the learned advocate for the respondent nos.10 and 11, Mr. Ghosh, learned advocate submits that even assuming that the construction is on a

P.W.D. road, the construction is not in the nature of a 'kaccha structure' and permission from the panchayat authorities would be required as per Section 23(1) of the West Bengal Panchayat Act, 1973.

These disputed questions of facts cannot be decided by this Court nor can this Court decide the question of title and encroachment. The petitioners are at liberty to approach the civil court with regard to such allegations. However, as there is a complaint of unauthorized construction, the writ petition is disposed of with a direction upon the competent authority of the Neturpur Gram Panchayat to act and proceed in accordance with law and reach the complaint filed by the petitioners to its logical conclusion by adopting the following procedure:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos.10 and 11. Advance notice of the inspection shall be served upon the petitioners and the respondent nos.10 and 11 and all other interested parties. If the parties are not available to accept notice, the authorities shall affix the notice of hearing and inspection at conspicuous places in their 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 petitioners and the respondent nos.10 and 11. 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 statute. The court has not gone into the merits of the claims and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of four months from the date of communication 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 learned advocate's communication.

(Shampa Sarkar, J.)