

S/L 25
22.09.2022
Court. No. 19
GB

W.P.A. 8299 of 2022

Gour Mohan Mondal & Ors.
VS
The State of West Bengal & Ors.

*Mr. Gazi Faruque Hossain,
Ms. Priyanka Mondal.*

...for the Petitioners.

Mr. Gobinda Chandra Baidya.

...for the Respondent No.8.

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

The petitioners allege that the respondent no.8 has made certain constructions on L.R. Plot No.4435 of Mouza-Raidighi Abad, without any permission. Reliance has been placed on an information given under the Right to Information Act. The petitioners approached the authorities under the law, seeking demolition of the structure. It is alleged that the authorities have not taken any steps despite such complaint.

The learned advocate for the respondent no.8 submits that the land was purchased from the father and brother of the petitioners. The petitioners claim to be co-sharers. Hence, the writ petition has been filed as a pressure tactic for obvious reasons.

These issues with regard to the title and the shares of the petitioners are not to be decided by this Court. The panchayat authorities cannot be called upon to decide such issues. The right of the petitioners in respect of the property in question, is not relevant for the adjudication of the writ

petition. The only question to be determined would be, whether the construction of the respondent no.8 was with a permission from the authority and also in compliance with the Panchayat Rules and the law. The writ petition is disposed of with a direction upon the Raidighi Abad Gram Panchayat, to dispose of the representation of the petitioners dated January 17, 2022 in accordance with law.

While doing so, the following procedure shall be adopted:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos.8. An advance notice of the inspection shall be served upon the petitioners and the respondent nos.8 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 had been 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. The question of right, title and possession shall not be decided by the panchayat authorities.

- e) A hearing shall be given to the petitioners and the respondent nos.8. 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 Section 23(5) of the West Bengal Panchayat Act, 1973.

The court has not gone into the merits of the claims of the petitioners and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of 12 weeks from 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 server copy of this order.

(Shampa Sarkar, J.)