

S/L 21
06.09.2022
Court. No. 19
GB

W.P.A. 11689 of 2021

Dilip Hazra & Ors.
VS
The State of West Bengal & Ors.

*Mr. Sukumar Ghosh,
Ms. Moumita Ghosh.*

...for the Petitioners.

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

None appears on behalf of the respondent nos.9 to 20.

The allegation of the petitioners is that, a construction made by the respondent nos.9 to 20 without any valid sanction.

The petitioners seek implementation of the order of this Court dated March 14, 2017, passed in W.P. 21291(W) of 2015. By such order, a coordinate Bench had directed the concerned Pradhan to take a decision in accordance with law by considering the representation of the petitioner dated July 20, 2015, within 8 weeks from date of communication of the order. It is alleged by the petitioners that the panchayat authorities called the parties for a hearing, but no further steps were taken. Aggrieved, the petitioners again approached the Pradhan and other authorities for necessary action.

As the Court is not going into the merits of the claims of the petitioners, but is relegating the entire matter for a decision by the authority empowered by law to decide such

issues, the writ petition is disposed of in the absence of the respondent nos.9 to 20.

As a considerable time has lapsed since the order has been passed, this Court deems it fit to grant liberty to the petitioners to file a composite complaint before the Santipur Gram Panchayat, with their specific allegations. If such complaint is filed, the same shall be disposed of in accordance with law. The disputes with regard to title, encroachment, boundary, etc., shall not be gone into.

While doing so, the following procedure shall be adhered to:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos.9 to 20 within three weeks. Advance notice of the inspection shall be served upon the petitioners and the respondent nos.9 to 20. If the parties are not available to accept notice, the authorities shall affix the notices 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.9 to 20. 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, shall 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.

This Court has not gone into the merits of the claims and counter-claims of the parties. The entire issue shall be decided by the concerned authority independently.

The entire exercise shall be completed within a period of four months from the date of receipt of the complaint.

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 advocates' communication.

(Shampa Sarkar, J.)