

05.09.2022
Court. No. 19
Item 13 (ML)
Cp

W.P.A. No. 10557 of 2022

Halima Bibi
Vs.
The State of West Bengal & Ors.

Mr. Rafikul Islam Sardar
... for the petitioner.

Mrs. Monjuli Chowdhury
Ms. Mekhla Sinha
... for the respondent nos. 2 & 3.

Ms. Jayeeta Sinha
Mr. Sandip Mandal
...for the State.

The petitioner alleges unauthorized construction
by the respondent nos. 8 & 9.

Affidavit of service is taken on record. None
appears on behalf of the said respondents. As the
court is not inclined to enter into the merits of the
dispute raised by the petitioner with regard to the
alleged unauthorized construction but deems it fit to
refer the matter to the appropriate authority under the
law for a comprehensive decision, the writ petition is
taken up in their absence.

Mrs. Choudhury, learned advocate for the
respondent nos. 2 and 3, submits that the

construction under the Kolorah I Gram Panchayt falls within the jurisdiction of the Howrah Zilla Parishad.

The competent authority, namely the District Engineer, Howrah Zilla Parishad shall dispose of the complaint of the petitioner dated June 7, 2022, in accordance with law and the regulations framed with regard to the determination and action to be taken in case of unauthorized constructions which fall within the jurisdiction of the zilla parishad. 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 petitioner and the respondent nos. 8 and 9. An advance notice of the inspection shall be served upon the petitioner and the respondent nos. 8 and 9 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 nos. 8 and 9. 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 accordance with law. 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, in accordance with law.

The question of title, possession and boundary etc. shall not be decided by the zilla parishad. The only question to be decided by the zilla parishad authorities would be whether the construction has been made

without any permission and/or in violation of the building rules.

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.)