

07.09.2022
Sl. No.11(SL)
srm

W.P.A. No. 12678 of 2021

Saraswati Bhuniya

Vs.

State of West Bengal & ors.

Mr. Devajyoti Barman,
Ms. Sanjukta Basu

....for the Petitioner.

Mr. Lalit Mohan Mahata,
Ms. Kumkum Das

.....for the State-respondents.

Mr. G.K. Das,
Mr. K. C. Sahoo

...for the Respondent Nos.7 & 14.

Affidavit-of-service is taken on record.

The petitioner alleges unauthorised construction by the respondent Nos.6 to 16. The allegation is that the construction has been made on the land of the petitioner and without any permission from the concerned gram panchayat.

Learned advocate for the respondent Nos.7 and 14 submits that the construction is not on the area allegedly belonging to the petitioner. A temporary tin shed structure has been made with the permission of the owner. Such construction is exempted from the application of the Section 23 of West Bengal Panchayat Act, 1973, in terms of Rule 19 of the West Bengal Panchayat (Gram Panchayat

Administrative) Rules, 2004 (hereinafter referred to as the said Rules).

The police authorities have filed a report. It appears that there has been a long standing dispute between the parties with regard to '*bhag chas*'. The respondent Nos.7, 8 and their family have been living in a mud house since long. The petitioner has subsequently purchased the land. In view of the disputes, altercations took place. Police cases were started. Investigations were completed and charge sheets have been filed.

Such issue is not relevant for determination of the questions raised in the writ petition.

The petitioner alleges construction without permission. The respondent Nos.6 and 14 allege that they are living in a mud house structure with tin shed which did not require permission from the concerned gram panchayat under Rule 19(1) of the said Rules. Police report also indicates that the structure is a mud house. However, these are disputed facts, which cannot be decided in the writ petition.

The competent authority of the Shibrampur Gram Panchayat, District-South 24-Parganas (South) shall dispose of the representation of the petitioner dated May

23, 2021 in accordance with law upon hearing all the parties, including the respondent Nos.6 to 16.

This Court has not gone into the allegations made by the petitioner, as the competent authority, to decide such issue, is the concerned gram panchayat.

The gram panchayat will make an inspection and take into account the contention of the respondent Nos.6 to 16 that the construction of mud house structure with tin shed is exempted from the applicability under the provisions of the West Bengal Panchayat Act, 1973. However, if it is found that the allegation of the petitioner is correct and the nature of structure is such, that permission was necessary from the panchayat authorities, in that event, appropriate steps shall be taken in accordance with law.

The question of title, possession, encroachment, boundary, etc. shall not be decided by the panchayat authorities.

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

The pending criminal cases shall not have any impact on the decision to be taken by the panchayat authorities.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of
this order.

(Shampa Sarkar, J.)