

S/L 21
10.5.2022
Court. No. 19
sn

WPA 12784 of 2021

Mohan Chandra Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Jayanta Kumar Datta
Mr. Saikat Shaha Banik
... for the Petitioner.

Ms. Sipra Majumdar
Mr. Ayan Banerjee
... for the State.

Mr. Soumyajit Das Mahapatra
... for the Respondent nos.9-11

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

The petitioner has complained of inaction on the
part of the Mamudpur Gram Panchayat in disposing of
the complaint made by the petitioner dated June 8,
2021, addressed to the Pradhan.

The allegation is that the respondent nos. 9 to
11 have been made certain construction in violation of
the building rules, that is, without keeping mandatory
open space between the said construction and the
building on the adjacent land.

It appears that the complaints were lodged with
the local police station and a non-cognizable report
was filed by the police under Section 107 of the Code
of Criminal Procedure before the appropriate Court. It
also appears that a proceeding under Section 144(2) of

the Code of Criminal Procedure was also initiated and registered against the son of the petitioner.

Counter allegation is that the petitioner has raised construction in violation of law, by encroaching upon the land of the respondents Nos. 9 to 11, as a result of which, a Civil Suit has been filed by the respondent nos. 9 to 11 against the petitioner in the Court of the learned Civil Judge (Junior Division) First Court at Barrackpore.

Be that as it may, this Court need not decide the issues with regard to title, encroachment and boundary disputes etc. The Panchayat authorities are also not required to decide such issues. The other proceedings shall continue in accordance with law.

This writ petition is disposed of with a direction upon the competent authority of Mamudpur Gram Panchayat to act and proceed under Section 23 of the West Bengal Panchayat Act, 1973 strictly in accordance with law and reach the complaint to its logical conclusion by adopting the following procedure:

- a) An inspection of the premises shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos. 9 to 11 and all other interested parties. Advance notice of the inspection shall be served upon all the parties. 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 petitioner and the respondent nos.9-11. 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 documents relied upon by the respective parties shall be exchanged.

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, keeping in mind Section 23(5) of the said Act. The question of title,

boundary dispute etc. shall not be decided by the authority.

The court has not gone into the merits of the claims and counter-claims of the parties 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.

The information slip and injunction application are taken on record.

All the parties are directed to act on the basis of server copy of this order and/or the learned advocate's communication.

(Shampa Sarkar, J.)