

S/L 30
22.09.2022
Court. No. 19
GB

W.P.A. 11504 of 2022

Ashoke Roy & Anr.
VS
The State of West Bengal & Ors.

*Mr. Joy Chakraborty,
Mr. Sandip Dinda.*

...for the Petitioners.

Ms. Sujata Ghosh.

...for the State.

*Mr. Lutful Haque,
Mr. Tarun Kanti Ghosh.*

...for the Respondent No.5.

Mr. Pinaki Ranjan Mitra.

...for the Respondent No.6.

*Ms. Monjuli Chowdhury,
Ms. Mekhla Sinha.*

...for the Zilla Parishad.

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

The petitioners allege that the respondent no.6 has
raised an unauthorized construction.

The respondent no.6 submits that no new
construction has been raised, but as their house was gutted
in fire, some repairing had been done with notice to the
panchayat authorities and permission has been sought for. It
is also submitted by Mr. Mitra that the law provides that for
repairs, permission would not be required, unless there is a
change in the external structure or addition and alteration is
made externally.

The panchayat authorities submit that due to
pendency of the writ petition and also a civil suit, in which
an injunction had been granted by the learned civil court,

action had not been taken with regard to the prayer of the respondent no.6 seeking permission for repair.

Learned advocate for the Zilla Parishad submits that the panchayat authorities do not have any role to play in the matter as the area, in which the alleged construction is being made, falls within the jurisdiction of the Zilla Parishad.

It appears that the petitioner had approached the District Engineer, Building Department, Howrah Zilla Parishad by filing a representation dated April 29, 2022. The said representation shall be disposed of by the concerned authority if it is found that the Zilla Parishad is the competent authority. If it is found that the gram panchayat is the authority, the Zilla Parishad shall refer the matter of the gram panchayat shall dispose of the complaint.

While disposing of the complaint, the following procedure shall be adopted by the competent authority.

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent no.6. An advance notice of the inspection shall be served upon the petitioners and the respondent no.6 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 concerned authorities.
- e) A hearing shall be given to the petitioner and the respondent no.6. 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 of the petitioners and the issues involved shall be decided independently.

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

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.)