

S/L 17
2.5.2022
Court. No. 19
sn

WPA 13045 of 2021

Abdul Gaffar Molla & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Debabrata Sardar

... for the Petitioners

Mr. Rama Prasad Sarkar
Ms. A. Deb Jana

... for the State.

Mr. M.A. Samad
Ms. Payel Ghosh

... for the Respondent nos. 7&8

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

The petitioners have alleged that the respondent
nos. 7 and 8 have made some unauthorised
construction on L.R. Plot no.389 pertaining to L.R.
Khatian no.26, J.L. No.34, situated at Mouza
Dihimedanmolla under Baruipur police Station,
District South 24 Parganas.

According to the petitioners, such construction
has been made forcefully, without any
sanction/permission from the local authority. A
complaint was lodged with the local police station.
Proceedings were taken out under Section 144(2) of the
Code of Criminal Procedure, which was registered as
M.P. Case No. 2497 of 2021.

It is alleged that the authorities have failed and neglected to consider the complaint of the petitioners dated July 28, 2021.

It is submitted by Mr. Samad, learned advocate appearing on behalf of the respondent nos.7 and 8 that the construction has been made upon a sanction granted by the Hariharpur Gram Panchayat. A copy of the sanction plan has been produced before this Court. Such approval was granted by the competent authority of the Gram Panchayat on January 28, 2021.

It appears from the said sanction plan that the premises have been mentioned as C.S. Dag No. 389. There is confusion with regard to the identity of the land. The petitioners claim that construction has been made on L.R. Dag No. 389 whereas sanction has been granted in respect of C.S. Dag No. 389.

Under such circumstances, this writ petition is disposed of with a direction upon the competent authority of the Hariharpur Gram Panchayat to dispose of the objection of the petitioners in accordance with law upon adopting the following procedure:-

a) An inspection of the premises shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos.7 and 8. Advance notice of the inspection shall be served upon the petitioners and the respondent

nos. 7 and 8. 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 authority 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.7 and 8. 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. The question of title, boundary dispute shall not be decided by the panchayat authorities.

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.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)