

13.01.2022
Court No. 19
Item no.14
CP

WPA 13289 of 2021

Ramabater Agarwala @ Ramabatar Agarwal
Vs.
The State of West Bengal & ors.

Mr. Atis Kumar Biswas
.....for the petitioner.

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
....for the State.

Mr. Golam Mustafa
....for the respondent no. 8.

Affidavit of service is taken on record.

The petitioner has alleged that respondent no. 8 has raised unauthorized construction on Dag No. 728 under the Karimpur Mouza by constructing an additional floor without any permission or sanction from the panchayat authorities. A complaint was lodged before the Pradhan, Karimpur-I Gram Panchayat on April 26, 2021. It is the contention of the petitioner that despite such complaint, no steps have yet been taken by the panchayat authorities.

Learned advocate appearing on behalf of the respondent no. 8 denies such allegations. It is submitted that at the instance of the respondent no. 8, an order was passed by this court in WPA 5249 of 2021, by which the panchayat authorities were

directed to consider the allegations of unauthorized construction made against the petitioner. It appears that both the parties have alleged unauthorized construction on Plot No. 727 and Plot No. 728 by each other.

This court is of the opinion that the writ petition should be disposed of with a direction upon the appropriate authority of the Karimpur-I Gram Panchayat to dispose of the representation of the petitioner being annexure – P3 at page 20 of the writ petition by adhering to the following procedure:

a) An inspection of the site shall be made.

Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the petitioner and the respondent no. 8.

b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.

c) Such report shall be handed over to the petitioner as also the respondent no. 8.

d) A hearing shall be given to the petitioner and the respondent no. 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.

- e) 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 Section 23 of the West Bengal Panchayat Act.

The court has not gone into the merit of the claims and counter-claims of the parties and the issues shall be decided independently. This order is independent of the order passed in respect of the alleged illegal constructions by the petitioner on Plot No. 727.

In view of the rising pandemic situation, the entire exercise shall be completed within a period of eight months from the date of communication of this order.

The writ petition is, thus, disposed of. There shall be no order as to costs.

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

(Shampa Sarkar, J.)