

S/L 20
05.09.2022
Court. No. 19
GB

W.P.A. 12353 of 2022

Sumanpriya Paul & Ors.
VS
The State of West Bengal & Ors.

*Mr. Shahan Shah,
Mr. Soumen Barman.*

...for the Petitioners.

*Mr. Manas Kundu,
Mr. Debabrata Mondal.*

...for the State.

Mr. Partha Chatterjee.

...for the Respondent Nos.6 to 8.

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

Despite service, none appears on behalf of the respondent nos.3 and 4.

The petitioners allege unauthorized construction. According to the petitioners, the alleged construction by the respondent nos.6 to 8 is without a sanction from the permission granting authority.

The learned advocate for the respondent nos.6 to 8 submits that the construction had been in existence since long. The panchayat authority had also given permission to their father, to repair the structure. Electricity bills are being regularly paid and as such, the allegation of the petitioners are baseless.

As the petitioners have raised a question of unauthorized construction, this Court deems it fit to refer the matter to the concerned permission granting authority for a decision in this regard. The complaint of the petitioner dated

May 16, 2022 being Annexure-P/3 at Page 64 of the writ petition, shall be considered and disposed of in accordance with law.

While disposing of the complaint, the following procedure shall be adhered to:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos.6, 7 and 8 within three weeks. Advance notice of the inspection shall be served upon the petitioners and the respondent nos.6, 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 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 petitioners and the respondent nos.6, 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 points raised by either party, shall 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 terms of the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

This Court has not gone into the merits of the claims and counter-claims of the parties. The entire issue shall be decided by the concerned authority, 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 learned advocates' communication.

(Shampa Sarkar, J.)