

08.09.2022
Sl. No.19
srm

W.P.A. No. 13795 of 2021
Amalendu Prakash Ghosh
Vs.
The State of West Bengal & ors.

Mr. Keshab Chandra Das,
Ms. Aparajita Mandal
.....for the Petitioner.

Mr. Manas Kundu,
Mr. Ranjit Rajak
.....for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.7 to 9.

As the Court is not inclined to pass mandatory directions, as prayed for in the writ petition, but is relegating the entire dispute for adjudication by the competent authority under law, the writ petition is taken up in their absence.

The petitioner alleges unauthorised construction by the respondent No.9. A similar objection was taken by the petitioner in 2010 by filing a writ petition. In the said writ petition, a co-ordinate Bench had passed an order directing the concerned authority to decide the objection of the petitioner.

It is submitted that on the selfsame cause of action a civil suit had been filed by the respondent No.9 and as such the order of this Court had not been given effect to. It is now submitted that the civil suit had been dismissed sometime in 2014. The specific allegation is that despite having informed the panchayat authorities about the dismissal of the civil suit and about the order of this Court for disposal of the objection of the petitioner in respect of the construction of the respondent No.9, no steps had been taken by the said authority.

Under such circumstances, the writ petition is disposed of with a direction upon the concerned gram panchayat to consider the grievance of the petitioner in terms of the representation dated August 8, 2021 and pass a reasoned order in accordance with law. While doing so, the gram panchayat shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of all interested parties, with 48 hours advance notice to the petitioner and all interested parties and also the respondent No.9.

- 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 interested parties.
- d) 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 interim measures by stopping such construction.
- e) A hearing shall be given to the petitioner and all other interested parties. 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.
- 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.

The entire exercise shall be completed within a period of four 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 basis of the server copy of this order.

(Shampa Sarkar, J.)