

08.09.2022
Sl. No.17
srm

W.P.A. No. 13753 of 2021
Aminul Mollah
Vs.
The State of West Bengal & ors.

Mr. Samrat Choudhury,
Mr. Ahshan Ahmed
.....for the Petitioner.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra
.....for the State-respondents.

Ms. Manjuli Chowdhury,
Ms. Mekhla Sinha
...for the Respondent No.3/
Howrah Zilla Parishad.

Mr. Nilanjan Bhattacharjee,
Mr. Sanjoy Karar
...for the Respondent Nos.10 & 11.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.9 and 12.

The petitioner alleges that the respondent Nos.9 to 12 have made certain unauthorised construction in deviation of a sanction plan. The allegation is that such construction has been made on a 'Sali' land, over which the petitioner has a charge.

Learned Advocates for the respondent Nos.10 and 11 as also for the Howrah Zilla Parishad submit that the

dispute is purely civil in nature and the zilla parishad is not required to go into the adjudication of encroachment and right of the petitioner over the property.

Having considered the complaint filed by the petitioner, it appears that there is an allegation of deviation from the sanction plan, as well. The allegation of encroachment and the issue as to whether the petitioner has any charge over the property, are not to be decided by a writ court or by the panchayat authorities.

Under such circumstances, the writ petition is disposed of with a direction upon the competent authority of the Howrah Zilla Parishad to consider the writ petition as an objection and take necessary action in this regard. While doing so, the Howrah Zilla Parishad 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 Nos.9 to 12.
- b) Report of the inspection shall be prepared along with the sketch maps, indicating the extent of deviation, if any.

- c) Such report shall be handed over to the petitioner as also the respondents.
- d) A hearing shall be given to the 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.
- 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 the provisions of the statute.

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.)