

20.01.2022
Court No. 19
Item no.12
sn

WPA 14609 of 2021

Netai Halder
Vs.
The State of West Bengal & ors.

Mr. Partha Chakraborty
Ms.Sharmistha China
Ms. Puja Mondalfor the petitioner.

Mr. Arghya Mukherjeefor the respondent no.4

Mr. Pantu Deb Roy
Mr. Anand Farmaia ..for the State

The petitioner has alleged that the respondent no.4 has made some unauthorized construction on L.R.Dag no.817/1076, Mouza Deara, J.L. No.10,R.S. Khatian no.348, Narendrapur, District South 24 Parganas.

It is the contention of the petitioner that the said respondent had made constructions without valid permission from the Kheyadaha-II Gram Panchayat.

It is submitted by the learned advocate appearing on behalf of the respondent no.4 that the respondent no.4 had purchased the land and had made constructions in accordance with law on the portion that they have purchased. It is the specific contention of the said respondent that there has not been any unauthorized construction on the said plots. It also appears that a Title Suit No. 60 of 2021

is pending before the learned Civil Judge(Senior Division) at Baruipur and an ad-interim order of injunction was passed on February 2, 2021 directing the parties to maintain status quo with regard to the nature, character and possession of the above suit property. The remedy of the petitioner against violation of the order of status quo, is before the Civil Court. However, the panchayat authorities are the authorities to take action against unauthorized construction and ensure that no construction takes place, either without a sanction plan/permission or in violation of the plan and building rules.

Under such circumstances, this writ petition is disposed of with a direction upon the competent authority of Kheyadaha-II Gram Panchayat to act and proceed in accordance with law on the basis of the complaint made by the petitioner dated July 9, 2021 upon granting an opportunity of hearing to all the parties.

While disposing of the complaint of the petitioner the panchayat authorities shall proceed by adhering to the following directions: -

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the petitioner and the respondent no.4. If the parties are not

available to accept notice, the Corporation shall affix the notice of hearing and inspection at conspicuous places in their respective premises.

- b) The report of the inspection shall be prepared along with the sketch map indicating the extent and nature of unauthorized construction, if any.
- c) Such report shall be handed over to the petitioner as also the respondent no.4.
- d) A hearing shall be given to the petitioner and the respondent no.4. 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 statute.

The court has not gone into the merits of the claims and counter-claims of the parties and the issues shall be decided independently.

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.)