

21.02.2022
Court. No. 19
Item no. 15
Cp

WPA 15577 of 2021

Shibaji Kumar Deuty & anr.
Vs.
The State of West Bengal & Ors.

Mr. Manik Das
Mr. Falguni Majhi
... for the Petitioners.

Mr. Uttiya Ray
... for the respondent no. 8.

Mr. Srijan Nayak
Mrs. R. Maitra
.....for the State.

The learned advocate appearing on behalf of the State respondents has filed a report which is taken on record.

The petitioners and the respondent no. 8 are co-sharers of Plot No. 1677/2281 under L.R. Khatian Nos. 188, 759, 959, 997 and 998, Mouza – Shaktigarh, within the limits of the Barsul No.1 Gram Panchayat.

It is alleged that the dwelling house on the said plot is jointly possessed and enjoyed by the petitioners, the respondent no. 8 as also the other siblings. The petitioners have alleged that the respondent no. 8 raised some unauthorized construction on the common property without permission from the authority. The other co-sharers objected to such

construction. It is prayed that the complaint lodged by the petitioners before the respondent no. 6 dated September 3, 2021 be disposed of in accordance with law, upon consideration of the grievances of the petitioners.

Mr. Ray, learned advocate appearing on behalf of the respondent no. 8 denies the allegations and submits that the portion which was enjoyed by Mr. Ray's client was substantially damaged and needed some repairing. The said portion was repaired and plastered.

However, these are disputed questions of fact which are not required to be gone into by the writ court.

Under such circumstances, the writ petition is disposed of by directing the competent authority of the Barsul No.1 Gram Panchayat to dispose of the complaint of the petitioners dated September 3, 2021 in accordance with law. While disposing of the same, the competent authority shall adhere to the following procedures:

- 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 petitioners, the respondent no. 8 and other persons occupying the same.

- 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 and other persons occupying the same.
- d) A hearing shall be given to the petitioner, respondent no. 8 and other persons occupying the house. 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.

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 server copy of this order.

(Shampa Sarkar, J.)