

05.09.2022
Sl. No.31
srm

W.P.A. No. 15388 of 2022
Kingshuk Bera & Ors.
Vs.
The State of West Bengal & ors.

Mr. Anindya Bose,
Mr. Diptendu Monda,
Mr. Nikhil Gupta

....for the Petitioners.

Ms. Sutapa Sanyal,
Mr. Anand Farmania

.....for the State-respondents.

Md. Shahjahan Hossain,
Ms. S. Sultana

...for the Respondent No.6.

Affidavit-of-service is taken on record.

The writ petition is disposed of with a direction upon the Bodai Gram Panchayat to consider the representation dated July 4, 2022 filed by the petitioner No.1, *inter alia*, alleging that the respondent No.6 by extending the ground floor had failed to maintain the required vacant side space. The learned Advocate for the respondent No.6 denies such allegations and submits that the writ petition should be rejected outright.

This Court is of the view that as there is a representation before the Pradhan of Bodai Gram Panchayat, the same should be disposed of in accordance

with law. The only question to be considered would be whether the adequate side space as per law, had been maintained by the respondent No.6 or not.

The Court has not decided the issues on merits, but relegates the matter to the authority under the provisions of Section 23 of the West Bengal Panchayat Act, 1973, to decide the sole issue. While doing so, the gram panchayat shall adhere to the following procedures:

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of all parties, with 48 hours advance notice to the petitioners and the respondents No.6.
- 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 petitioners 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 is continuing, the authorities may take interim measures by stopping such construction.
- e) A hearing shall be given to the petitioners and the respondent No.6. 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.)