

4.01.2022
Court No. 19
Item no.10
dg

WPA 16297 of 2021

Swapan kumar Hazra
Vs.
The State of West Bengal & ors.

Mr. Biswaranjan Bhakat ... for the petitioner.

Mr. Uttam Kumar Bhattacharyya
.... for the respondent
nos. 2, 3 & 4.

Mr. Somnath Roy Chowdhury
... for the respondent no. 6

Mr. Susanta Pal
Mrs. Anima Das Chakraborty
....for the State

The petitioner has prayed for a direction upon the respondents to consider the representation being Annexure 'P-3' to the writ petition. The petitioner has alleged that an unauthorized construction is being made by the respondent no. 6, who claims to be the owner of the land in question. According to the petitioner, the Purba Medinipore Zilla Parishad, must enquire into the matter and take action as per law, if any unauthorized construction is detected.

Mr. Roy Chowdhury, learned Advocate appearing on behalf of the respondent no. 6 submits that the petitioner has already approached the civil court and has prayed for a mandatory order of injunction of demolition of the construction. According to Mr. Roy Chowdhury, parallel proceedings cannot be permitted.

Considering the grievance of the petitioner, this Court is of the opinion that the matter with regard to illegal and unauthorized construction has to be decided by the statutory authorities as per the provisions of the West Bengal Panchayat Act, 1973. Whether the construction has been made in accordance with the plan or in deviation thereof cannot be decided by the civil court.

Under such circumstances, the writ petition is disposed of with the direction upon the District Engineer, Purba Medinipore Zilla Parishad to consider the representation of the petitioner and dispose of the same in accordance with law.

This Court has not gone into the merits of the claims and counter-claims of the parties. While disposing of such application, an inspection of the premises shall be made in presence of the petitioner as also the respondent No. 6. An inspection report shall be prepared. The extent of unauthorized construction, if any, shall be indicated in the report along with a sketch map. The report shall be supplied to the parties. A hearing shall be given and a reasoned order shall also be passed and communicated to all concerned. On the basis of what transpires during the inspection and at the hearing, the competent authority will act in terms of Section 23 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.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)