

S/L 35
15.09.2022
Court. No. 19
sn

W.P.A. 16757 of 2021

Sunil Sardar
VS
The State of West Bengal & Ors.

Mr. Debabrata Sardar
...for the Petitioner.

Mr. Monoj Malhotra
Mr. Suman Dey ..for the State

None appears on behalf of the respondent nos.6&7, despite service. Affidavit-of-service filed in Court today, be kept with the records. This writ petition is taken up in their absence, as this Court has not entered into the merits of the claims of the petitioner. The matter is relegated to the appropriate authority empowered by law, to deal with the issue of unauthorized construction.

The petitioner claims to be the owner of L.R. Dag no.1500 pertaining to L.R. Khatian no.426 of mouza Kantamari, District South 24 Parganas.

The allegation is that during the pendency of a civil suit and subsistence of an order of status quo, a construction has been raised by the respondent no.7 without permission from the concerned authority

The petitioner also relies on a document which is a communication from the Pradhan, Deulbari Debipur Gram Panchayat dated August 10, 2021. The communication indicates that no sanction had been granted for any construction in favour of Robin Sardar, the respondent no.7

herein. The allegation is that the panchayat authorities have not taken any steps with regard to the unauthorised construction.

This writ petition is disposed of with a direction upon the Kantamari-Debipur Gram panchayat to dispose of the representation of the petitioner dated September 15, 2021, in accordance with law.

While disposing of the complaint, the following procedure shall be adhered to:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no.7 within three weeks. Advance notice of the inspection shall be served upon the petitioners and the respondent no.7. If the parties are not available to accept notice, the authorities shall affix the notices of hearing and inspection at conspicuous places in their respective premises.

b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and had been continuing, the authorities may take such interim measures by stopping such construction.

c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.

d) Such report shall be handed over to the parties.

e) A hearing shall be given to the petitioner and the respondent no.7. 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. All points raised by either party, shall be decided.

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 West Bengal Panchayat Act, 1973.

g) The question of right, title and interest of the petitioner shall not be gone into.

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 learned advocates' communication.

(Shampa Sarkar, J.)