

05.09.2022
Court. No. 19
Item 34 (ML)
Cp

W.P.A. No. 16080 of 2022

Sri Rasu Santra
Vs.
The State of West Bengal & Ors.

Mr. Animesh Paul
... for the petitioner.

Ms. M. Chowdhury
Ms. M. Sinha

....for the respondent nos. 2 & 3.

Mr. Susanta Pal
Ms. A. Neogi

...for the State.

Despite service none appears on behalf of the respondent no. 6.

It is the contention of the petitioner that the construction on RS Dag No. 5171 corresponding to L.R. Dag No. 5274 of Mouza Jagadishpur, was illegal and unauthorized.

According to Mr. Pal, the Assistant Engineer, Howrah Zilla Parishad had prepared a report in another proceeding inter alia stating that the construction was illegal. Such report of the Assistant Engineer, Howrah Zilla Parishad is Annexure – P-4 at page 26 of the writ petition.

The writ petition is taken up in the absence of the respondent no. 6, as this court is not inclined to deal with the merits of the allegations in the writ petition.

The respondent no.3, i.e. the District Engineer, Howrah Zilla Parishad shall consider the representation of the petitioner dated July 5, 2022, being Annexure P-8 at page 44 of the writ petition made through the learned advocate, and pass necessary orders in accordance with law. While doing so 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. 6. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 6 and all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the 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 was 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. 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. All points raised by either party, will 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 accordance with law. The court has not gone into the merits of the claims and the issues involved 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 question of title, possession and boundary dispute etc. shall not be decided by the zilla parishad.

The only question to be decided by the zilla parishad would be whether the construction has been made without any permission and/or in violation of the building rules.

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.)