

22.09.2022
Court No. 19
Item no.42
CP

W.P.A. No. 16905 of 2022

Saddam Baidya & ors.

Vs.

The State of West Bengal & Ors.

Mr. Shamim-ul Bari
Md. Hasanuzzaman

...for the petitioners.

Mr. Jahar Dutta
Mr. Bipin Ghosh

...for the State.

Affidavit of service is taken on record. Despite service, none appears on behalf of the respondent nos. 8 to 12.

As the Court is not inclined to pass mandatory directions as prayed for in the writ petition, but is relegating the entire dispute for adjudication by the competent authority under law, the writ petition is taken up in their absence.

It appears that the petitioners has approached the concerned authority of the Belegachi Gram Panchayat praying for necessary action against the unauthorized construction allegedly raised by the respondent nos. 9 to 12. It is alleged that the constructions have been made on L.R. Dag Nos. 824, 825 and 826 which was classified as 'sali' land. It is alleged that no conversion was made. It is further

alleged that permission for construction was also not granted.

Under such circumstances, the writ petition is disposed of with a direction upon the Belegachi Gram Panchayat to take action on the basis the representation of the petitioner. While doing so, the following procedure shall be adopted:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos. 9 to 12. An advance notice of the inspection shall be served upon the petitioners and the respondent nos. 9 to 12 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 petitioners and the respondent nos. 9 to 12. 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 terms of Section 23(5) of the West Bengal Panchayat Act.

The court has not gone into the merits of the claims.

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 etc. shall not be decided by the panchayat authorities. The only question to be decided by the panchayat authorities, would be whether the construction has been made without any permission

and/or in violation of the building rules and the relevant laws.

A copy of the writ petition along with a server copy of this order be served upon the concerned gram panchayat for necessary compliance 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.)