

S/L 25  
16.09.2022  
Court. No. 19  
GB

W.P.A. 18034 of 2021

Sudarsan Midya & Anr.  
VS  
The State of West Bengal & Ors.

*Sk. Mustak Ali.*

*...for the Petitioners.*

*Mr. Jahar Dutta,  
Mr. Bipin Ghosh.*

*...for the State.*

Affidavit-of-service filed in Court today, be kept with the record.

Despite service, none appears on behalf of the respondents Nos.8 to 10.

As this Court is not inclined to pass any mandatory direction as prayed for by the writ petitioners, but is relegating the entire issue to be determined by the appropriate authority, the writ petition is taken up and disposed of in the absence of the non-appearing respondents.

The petitioners allege that the respondent nos.9 and 10 have raised certain unauthorized construction on Plot No.1458 of Mouza-Chaksimulia.

It appears that on the direction of this Court, passed in WPA No.2848 of 2020, a proceeding was initiated in respect of a construction made by the petitioners and there is an order of demolition. The petitioners have not complied with such direction. On the other hand, the petitioners have filed a writ petition with an allegation that the respondent nos.9 and 10 have raised unauthorized construction.

Although, it appears to this Court that the petitioners approached the Pradhan of Chaksimulia Gram Panchayat with their allegations along with several villagers, it is the specific contention of the petitioners that the Gram Panchayat has not taken any steps, despite such complaint.

This writ petition is disposed of without interfering with the decision with regard to the petitioners' construction and the authorities are at liberty to effect the demolition, if the petitioner has not yet complied with the order.

However, as the petitioners and other villagers have also alleged unauthorized construction by the respondent nos.9 and 10, the concerned authority must look into the matter and adjudicate the same in accordance with law. This Court directs the concerned Gram Panchayat to dispose of the representation of the petitioners dated August 11, 2021, in accordance with law.

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 and 10. An advance notice of the inspection shall be served upon the petitioners and the respondent nos. 9 and 10 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 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. The question of right, title and possession shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioners and the respondent nos. 9 and 10. 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, 1973.

The court has not gone into the merits of the claims of the petitioners and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of 12 weeks from date of communication of this order.

The petitioners are directed to serve a copy of this writ petition along with a server copy of this order upon the respondent nos.9 and 10.

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.)**