

S/L 45
31.10.2022
Court. No. 19
GB

W.P.A. 18303 of 2021

Bikash Sardar
VS
The State of West Bengal & Ors.

Mr. Debabrata Chakrabarti,
Mr. Sounak Bhattacharya,
Mr. Sounak Mondal.

...for the Petitioner.

Mr. Tarun Kr. Ghosh,
Ms. Tanusri Pal Chowdhuri.

...for the State.

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

Despite service, none appears on behalf of the respondent nos.5 to 9. As this Court is not inclined to pass any mandatory direction as prayed for by the writ petitioner, 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 petitioner complains that the respondent nos.5 to 9 have raised certain unauthorized constructions without any permission.

The authority of the Taldi Gram Panchayat shall dispose of the complaint of the petitioner dated October 25, 2021 being Annexure-P/2 at Page 21 of the writ petition.

If it is found on the facts and upon ascertaining the nature of construction that the permission granting authority would either be the panchayat samiti or a Zilla Parishad, in that event the matter shall be referred by the

concerned Gram Panchayat to the said permission granting authority.

In either case whether the permission granting authority is the Taldi Gram Panchayat or the panchayat samiti or the Zilla Parishad, the following procedure shall be followed while disposing of the matter:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.5 to 9. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.5 to 9 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 authority. The allegation of obstruction of easementary right of air and light shall not be gone into by the authority.

- e) A hearing shall be given to the petitioner and the respondent nos.5 to 9. 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 of the petitioner and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of four months from 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.)