

S/L 64
16.09.2022
Court. No. 19
GB

W.P.A. 19083 of 2021

Tushar Kanti Das
VS
The State of West Bengal & Ors.

Mr. Nilay Sengupta,
Mr. Sujit Banerjee.

...for the Petitioner.

Mr. Naba Kumar Das,
Mr. Subhabrata Das.

...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.5 and 6.

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 petitioner alleges unauthorized and illegal construction on an agricultural land being Dag No.733 of Mouza-Mamudpur. The petitioner filed a complaint before the Pradhan, Dighalgram Panchayat and also before other authorities. The allegation is that that said complaint has not yet been disposed of by the panchayat authorities.

The writ petition is disposed of with a direction upon the authorities of the concerned Gram Panchayat to consider and dispose of the complaint of the petitioner of the alleged

illegal construction made by the respondent no.6, 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 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 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 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 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.

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.)