

S/L 69
16.09.2022
Court. No. 19
GB

W.P.A. 19150 of 2021

Gopal Bera
VS
Shashati Gram Panchayat & Ors.

Mr. Prasenjit Barman.

...for the Petitioner.

*Mr. Naba Kumar Das,
Mr. Subhabrata Das.*

...for the State.

*Ms. Monjuli Chowdhury,
Ms. Mekhla Sinha.*

...for the Howrah Zilla Parishad.

*Ms. Juin Dutta Chakraborty,
Mr. Debasish Kundu.*

...for the Respondent No.5.

The petitioner alleges that the respondent no.5 has raised certain construction on an agricultural land without obtaining any conversion from the competent authority and without any permission from the permission granting authority. Such construction has allegedly been made on L.R. Plot No.58 of Mouza-Mukundapur. The petitioner filed a complaint before the panchayat authority on August 9, 2021. It is alleged that the said complaint had not been disposed of in accordance with law.

The learned advocate for the respondent no.5 submits that the conversion of the land had been made and requisite permission from the permission granting authority had been obtained. Under such circumstances, it is prayed that the writ petition be dismissed.

The disputed questions of facts, cannot be gone into by this Court. The writ petition is disposed of with a direction upon the Shashati Gram Panchayat to dispose of

the complaint of the petitioner dated August 9, 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 petitioner and the respondent no.5. An advance notice of the inspection shall be served upon the petitioner and the respondent no.5 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.5. 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.)