

29.09.2022
Sl. No.11(DL)
srm

W.P.A. No. 18856 of 2022
Kallol Patra
Vs.
The State of West Bengal & ors.

Mr. Supratik Basu,
.....for the Petitioner.

Mr. Lalit Mohan Mahata,
Mr. P.B. Mahata
.....for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.2, 3, 4 and 7.

As this Court is not inclined to go into the merits of the allegations made by the petitioner, but deems it fit to relegate the entire issue to the appropriate permission granting authority under the law, the writ petition is disposed of in their absence.

The petitioner has already raised an objection with regard to the alleged unauthorised construction on Dag Nos.713 and 715 pertaining to Khatian No.129 of mouza Jangipara, District-Hooghly. It is alleged that such construction has been made without any permission from the permission granting authority.

Whether the Jangipara Gram Panchayat or the Hooghly Zilla Parishad is the permission granting authority, is not available to the Court. The petitioner has claimed that the property is a '*debutter*' property and the petitioner is allegedly a '*shebait*'. The allegation is that a local club is trying to take forceful possession of the property by engaging contractors to raise a building without any permission.

The writ petition is disposed of with liberty to the petitioner to approach the permission granting authority in accordance with law, by filing a specific complaint with his allegations. The reasons why the petitioner apprehends that the construction is without authority of law and without any permission and/or in violation of the laws and rules, must be stated in such complaint. If such complaint is filed, the permission granting authority shall act and proceed in accordance with law. If the gram panchayat authorities find that some other authority or the Zilla Parishad would be competent to deal with such construction, the same shall be referred to the said authority. While doing so, the following procedure shall be adopted by the authority empowered by the law to take steps in this regard:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of all parties, with 48 hours advance notice to the petitioners and the respondent No.7.
- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioner as also the interested parties.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and is continuing, the authorities may take interim measures by stopping such construction.
- e) A hearing shall be given to the petitioner and all the parties. 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.
- 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 entire exercise shall be completed within a period of four months from the date of receipt of the petitioner's representation.

The claims with regard to title, ownership, *shebaitship*, status of the property, are not gone into. The correctness of the submissions of the petitioner is not decided. The permission granting authority will deal only with the issue of alleged unauthorised construction, if such representation is made.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)