

24.03.2022
Sl. No. 15
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W.P.A. 20018 of 2021

Rampada Das
Vs.
The State of West Bengal & ors.

Mr. Soumik Ganguli
Ms. Chandana Chakraborty
... for the petitioner

Mr. Himadri Sekhar Chakraborty
Ms. Susnita Saha
... for the State

Mr. Masud Mallick
... for the respondents no.10 & 11

The petitioner has alleged that the respondent nos.10 and 11 have made certain constructions on a land recorded as 'Jal' in the land records. Such land is situated at Dag Nos.62 and 63 in Mouza Kanchlageria J.L. No.122.

It is the specific allegation of the petitioner that the construction is a concrete building which has been built without any permission from the panchayat authority and without any conversion of the land in question.

Mr. Mallik, learned Advocate appearing on behalf of the respondent nos.10 and 11 submits that a temporary *asbestos* shed structure is being raised on the land in question. Although, the record of rights indicates that the land is classified as 'Jal', the nature of the land has changed and as such, the respondent

nos.10 and 11 have applied for conversion. He further submits that panchayat authorities have also indicated that they do not have any objection to such conversion. He urges that this Court should not interfere in this case, in view of the fact that the construction raised by the respondent nos.10 and 11, is a temporary *asbestos* structure and as such, permission for such construction is not necessary.

Mr. Chakraborty, learned Advocate appearing on behalf of the State-respondent submits on instruction from the Block Land and Land Reforms Office that the land has not yet been converted to 'Bastu land'. He further submits that the police authorities have already started a prosecution under Section 107 of the Code of Criminal Procedure before the appropriate criminal court.

The factum of conversion of the land, the permission of the Pradhan of the Haipur Gram Panchayat on the basis of which such construction is being made, the occupancy certificate issued by the Panchayat authorities are all denied by the petitioner.

In view of the disputed questions of fact, this Court cannot decide the issues involved herein. Moreover, there is nothing on record to show that the conversion from 'Jal' to 'Bastu' had been done, although the same has been applied for.

Under such circumstances, this writ petition is disposed of with a direction upon the competent authority of the Haipur Gram Panchayat to act and proceed in accordance with law by adopting the following procedure :

- a) An inspection of the premises shall be conducted.
Such inspection shall be held in the presence of the petitioner and the respondent nos.10 and 11, within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondents No.10 and 11. If the parties are not available to accept notice, the authorities shall affix the notices of hearing and inspection at conspicuous places in their 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 was continuing, the authorities may take such interim measures by stopping such construction.
- c) A 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.
- e) A hearing shall be given to the petitioner and the respondents No.10 and 11. 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, shall be decided. The question of title or boundary dispute, shall not 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 the Section 23 of the West Bengal Panchayat Act. If any unauthorised construction is found to be going on, interim measures shall be adopted in accordance with law, during pendency of the hearing.

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

The entire exercise shall be completed within a period of four months from the 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 learned advocate's communication.

(Shampa Sarkar, J.)