

S/L 31
20.09.2022
Court. No. 19
GB

W.P.A. 20384 of 2021

Anil Patra & Ors.
VS
The State of West Bengal & Ors.

*Mr. Partha Pratim Roy,
Mr. Nilanjan Adhikari.*

...for the Petitioner.

*Mr. Manas Kundu,
Mr. Debabrata Mondal.*

...for the State.

*Mr. Rameshwar Sinha,
Mr. Mrityunjay Saha.*

...for the Respondent Nos.4 & 5.

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

The petitioners allege that the respondent nos.4 and 5 have raised certain construction on L.R. Plot No.742 of Mouza-Bhadua, by forcefully encroaching into the land of the petitioners. It is alleged that during the pendency of a civil suit and in the teeth of an order of injunction, the construction has been raised. Accordingly, a complaint was lodged before the Pradhan, Rishra Gram Panchayat.

The learned advocate for the respondent nos.4 and 5 submits that this Court should not interfere, as a civil suit is pending and the issues raised by the petitioners, can be adjudicated by the civil court.

The complaint filed by the petitioners dated November 16, 2021 before the Pradhan of the concerned Gram Panchayat, does not disclose the nature of the allegation. The representation deals with the allegations of

violation of the order of the civil court and alleged forceful occupation and encroachment of the land of the petitioners.

Admittedly, the question of right, title, interest, encroachment, boundary dispute, etc., cannot be decided by the panchayat authorities. All these issues are to be decided in the pending civil suit. However, if the petitioners file a complaint with specific allegations with regard to the alleged construction, in that event, the panchayat authority shall act and proceed in accordance with law.

Upon receipt of the complaint of the petitioners with specific allegation in respect of the construction, the matter shall be disposed of by adopting the following procedure:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos.4 and 5. An advance notice of the inspection shall be served upon the petitioners and the respondent nos.4 and 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 petitioners and the respondent nos.4 and 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. General, vague and omnibus allegation shall not be entertained.
- 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 receipt of the petitioner's application/complaint.

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.)