

M/L 8
12.12.2022
Court. No. 19
GB

W.P.A. 20371 of 2022

Sk. Maksud Hossen
VS
The State of West Bengal & Ors.

*Mr. Sabyasachi Chatterjee,
Mr. Pintu Karar,
Mr. Akashdeep Mukherjee,
Ms. Priyanka Paul.*

...for the Petitioner.

*Mr. Jahar Datta,
Mr. Bipin Ghosh.*

...for the State.

*Mr. Siddhartha Sarkar,
Mr. Prasad Bhattacharyya.*

...for the Respondent Nos.8 & 9.

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

The petitioner alleges that the respondent nos.8 and 9 had raised certain constructions on L.R. Dag No.2407 of Mouza-Palaspai, Village- Barbaun, corresponding to J.L. No.143. The allegation is that the said land has been recorded as 'Sali' land and the construction has been made without any conversion.

The learned advocate for the respondent nos.8 and 9 submits that the persons responsible for such constructions have not been impleaded as respondents. That such construction was made under the Pradhan Mantri Awas Yojana, by their mother and brother, as per the housing scheme. He further submits that the construction under a housing scheme was exempted from the provisions of Section 23 of the West Bengal Panchayat Act, 1973. He

further submits that the building rules were also not applicable as the construction under the said scheme was done on the basis of a model plan/drawing given by the authority.

Admittedly, a construction under the housing scheme does not require sanction. However, the same must be done in accordance with the model plan/drawing issued by the authority. Also, whether such construction under the Pradhan Mantri Awas Yojana could be raised before conversion of the land to 'Bastu', is another issue which has to be decided.

Under such circumstances, the writ petition is disposed of with a direction upon the Block Development Officer, Khanakul-II Block to treat the writ petition as a representation and dispose of the same in accordance with law. The issues that will be decided are as follows:-

- a) Whether the construction under the Pradhan Mantri Awas Yojana had been done in accordance with the model plan/drawing granted by the authority.
- b) Whether the land was recorded as a 'Sali' in the L.R. records of rights and a construction under the housing scheme on a land which was not recorded as a 'Bastu' could be permitted.

A reasoned order shall be passed and communicated to all. If the allegations are found to be correct, the authorities concerned shall take appropriate steps as permitted by law. Before any decision is taken, the

petitioner, the respondent nos.7 and 8, their family members and any other interested party shall be heard.

A reasoned order shall be passed and communicated to all.

The entire exercise shall be completed within a period of three 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 server copy of this order.

(Shampa Sarkar, J.)