

14.09.2022
Court No. 19
Item no.07
CP

W.P.A. No. 20418 of 2022

Jaharlal Jana & anr.

Vs.

The State of West Bengal & Ors.

Mr. Mrinal Kanti Ghosh

.....for the petitioners.

Mr. Himadri Sikhar Chakraborty
Mr. S.T. Mina

....for the State.

Affidavit of service is taken on record.

Despite service none appears on behalf of the
respondent nos. 6 to 8.

As the Court is not inclined to pass mandatory
directions, as prayed for in the writ petition, but is
relegating the entire dispute for adjudication by the
competent authority under law, the writ petition is
taken up in their absence.

The petitioners allege that the respondent nos.
7 and 8 have raised a construction without any
permission. It is contended that the said
construction is being raised on Plot No. 9/834 by
demolishing an existing structure allegedly belonging
to the petitioners. The petitioners claim title to such
plot.

Without going into the merits of the claims of the petitioners, the writ petition is disposed of with a direction upon the competent authority of the Bishnubar-II Gram Panchayat to consider and dispose of the complaint of the petitioner no. 2 in accordance with law and independently. The complaint is at page 44 being Annexure P-7 to the writ petition.

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 petitioners and the respondent nos. 7 & 8. An advance notice of the inspection shall be served upon the petitioners and the respondent nos. 7 & 8 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 was 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.
- e) A hearing shall be given to the petitioners and the respondent nos. 7 & 8. 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. The court has not gone into the merits of the claims 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.

The question of title, possession and boundary etc. shall not be decided by the panchayat authorities. The only question to be decided by the panchayat authorities, would be whether the construction has been made without any permission and/or in violation of the building rules and the relevant laws.

A copy of the writ petition along with a server copy of this order be served upon the concerned gram panchayat for necessary compliance 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.)