

S/L 103
23.09.2022
Court. No. 19
GB

W.P.A. 20572 of 2022

Uttar Mondal Para Baitul Aman Jame Masjid
Represented by Secretary, Asadul Molla
VS
The State of West Bengal & Ors.

*Mr. Animesh Mookerjee,
Md. Ali Ahasan.*

...for the Petitioner.

*Mr. Manoj Mahata,
Mr. Suman Dey.*

...for the State.

*Mr. Arkadipta Sengupta,
Mr. Tirthankar Dey.*

...for the Respondent No.6.

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

None appears on behalf of the respondents, apart from the panchayat authority.

As this Court is not inclined to pass any mandatory direction as prayed for by the writ petitioners, but is relegating the entire issue to be determined by the appropriate authority, the writ petition is taken up and disposed of in the absence of the non-appearing respondents.

The petitioner submits that the respondent nos.9 and 10 have been raising an unauthorized construction on L.R. Plot No.49 of Mouza-Mondalpara. The petitioner claims that the said L.R. plot is an undivided property and the construction by the said respondents have been made without any permission.

The learned advocate for the Gram Panchayat submits on instruction that no permission had been granted for any

construction on the said plot. The written instruction is taken on record.

As these disputes cannot be decided by this Court, the writ petition is disposed of with a direction upon the permission granting authority, that is, the Beraberi Gram Panchayat to dispose of the demand of justice, sent by the learned advocate for the petitioner dated June 15, 2022.

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 petitioner and the respondent nos.9 and 10. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.9 and 10 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 petitioner and the respondent nos.9 and 10. 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, 1973.

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

The entire exercise shall be completed within a period of four months from 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.)