

sS/L 19
09.03.2022
Court. No. 19
GB

W.P.A. 21325 of 2021

Dr. Shibani Ghorai
VS
The State of West Bengal & Ors.

*Mr. Mahendra Prasad Gupta,
Mr. Ayan Mitra,
Ms. Antara Panja,
Mr. D.K. Saila.*

...for the Petitioner.

*Mrs. Manjuli Chowdhury,
Ms. Mekhla Sinha.*

...for the Howrah Zilla Parishad.

*Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
Ms. Dipanwita Ganguly,
Mr. K. Bhattacharya.*

...for the Respondent Nos.9 & 10.

The writ petition has been filed with the allegation of unauthorized constructions erected by the respondent nos.9 and 10. The construction is allegedly being carried on at L.R. Dag No.3876 pertaining to L.R. Khatian No.4275 of Mouza-Bankra, J.L. No.55, Police Station-Domjur, District-Howrah under Bankra No.3 Gram Panchayat.

The allegations are construction without a sanction plan and in contravention with the building rules. It is submitted that the mandatory open spaces, which are to be maintained as per the building rules, have been covered by the alleged construction.

Disputing such allegations, Mr. Mukherjee, learned advocate appearing on behalf of the respondent nos.9 and 10 submits that a sanction was granted in favour of the said

respondents. The sanctioned plan has been placed before the court. He further submits that the petitioner's allegation that the construction has been made in absence of a plan is incorrect. The petitioner was refused such information by the concerned Zilla Parishad. The allegations of construction in violation of the building rules have also been denied.

Mrs. Chowdhury, learned advocate appearing on behalf of the Howrah Zilla Parishad, submits that on a preliminary inspection some unauthorized constructions were detected and a stop work notice had been issued.

As the Howrah Zilla Parishad has already taken steps, the writ petition is disposed of with a direction upon the competent authority of the Howrah Zilla Parishad to act and proceed in accordance with law by adhering to the following procedures:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.9 and 10 within three weeks. Advance notice of the inspection shall be served upon the petitioners and the respondent nos.9 and 10. 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) 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.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, shall 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 statute.

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 advocates' communication.

(Shampa Sarkar, J.)