

S/L 14
14.09.2022
Court. No. 19
GB

W.P.A. 20670 of 2022

Smt. Haridasi Halder & Anr.
VS
The State of West Bengal & Ors.

Mr. Bapin Baidya,
Mr. Sandipan Pal.

...for the Petitioners.

Mr. Rabindra Narayan Dutta,
Mr. Hare Krishna Halder.

...for the State.

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

None appears on behalf of the respondent nos.5 to 7 and 9 to 12.

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 petitioners allege unauthorized construction by the respondent nos.9 to 12 on certain portions of L.R. Plot Nos.2679 and 2680 of Mouza-Radhakantapur. Reliance has been placed on a reply under the Right to Information Act supplied to the petitioners.

The allegation is that, although the authorities have indicated that the respondent nos.9 to 12 do not have a permission from the Radhakantapur Gram Panchayat to raise such construction, the construction is being carried on.

Without going into the merits of the claims and counter-claims of the parties and the right of the respondent nos.9 to 12 to raise such construction, the writ petition is disposed of with a direction upon the Radhakantapur Gram Panchayat to dispose of the representation of the petitioner dated June 20, 2022 being Annexure-P/3 at Page-39 of 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.9 to 12. An advance notice of the inspection shall be served upon the petitioners and the respondent nos.9 to 12 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.9 to 12. 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 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.)