

19.09.2022
Court No. 19
Item no.04
CP

W.P.A. No. 20681 of 2022

Shyamal Kumar Mandal

Vs.

The State of West Bengal & Ors.

Mr. Sukhendu Banerjee
Mr. Dilip Kumar Mandal
Mr. Mritunjay Saha

.....for the petitioner.

Mr. Naba Kumar Das
Mr. Subhabrata Das

....for the State.

Mr. Soumik Ganguli

....for the respondent no. 10.

Affidavit of service is taken on record.

Despite service, none appears on behalf of the respondent no. 11. The construction by the said respondent has been challenged in the writ petition. The petitioner alleges inaction of the authorities.

Pursuant to the direction of a co-ordinate Bench, it appears that the panchayat authorities have already made an enquiry and found that the alleged construction was on Plot Nos. 897/1634 and 896 of Mouza – Patghara, J.L No. 25 and not on Plot No. 895/1628. The petitioner was asked to appear before the authority with relevant documents in support of his allegation of construction on Plot No.

895/1628. The panchayat authorities made a demarcation and found that the construction was not on the land of the petitioner. Strangely, the petitioner did not bother to approach the authority with the documents in support of his allegations. Instead, the petitioner accused the pradhan of being biased and in acting contrary to the order of this court.

If the petitioner claims ownership, he is bound to have documents of title and possession. The authorities were within their jurisdiction to ask the petitioner to supply the documents to establish their case. The authorities came to a preliminary finding that the construction was not on the land of the petitioner, based on the demarcation and records.

The petitioner is granted one month's time to comply with the notice dated June 27, 2022. Such notice was issued by the Pradhan, Jogeshganj Gram Panchayat pursuant to the direction of this court dated January 17, 2022.

In case the petitioner can show contrary records and documents, the authorities shall make a further enquiry and demarcate the land in presence of all the parties. In case the petitioner is not able to produce any documents, further enquiry by the authorities is not warranted. In any event, dispute with regard to title and possession has to be settled by a civil court. Only the allegation of unauthorized

construction can be decided by the panchayat authorities.

The writ petition is disposed of accordingly. A reasoned order shall be passed and communicated to all.

If the petitioner files a representation, the copy of the same shall be supplied to the respondent no. 11 and the panchayat authorities shall proceed accordingly, upon granting adequate opportunity of hearing to not only the petitioner but also to the respondent no. 11 and all other co-sharers.

The entire exercise shall be completed within a period of 3 months from the date of receipt of the petitioner's representation.

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.)