

07.11.2022
Court No. 19
Item no.13
CP

WPA No. 20991 of 2022

Kanika Halder
Vs.
The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee
Mr. Sandipan Das
Mr. B. Karim
Ms. Priyanka Paul
... for the petitioner.

Mr. Subhendu Banerjee
Mr. S. Pal

... for the respondent Nos. 9 &10.

Mr. Nilanjan Bhattacharjee
Mr. Saikat Dey
Mr. Abhilash Chatterjee

...for the respondent nos. 11 & 12.

Mr. Wasim Ahmed
Mr. T.A. Khan

...for the State.

The petitioner alleges that the respondent nos. 9 to 12 have raised separate unauthorized constructions on Dag Nos. 1352, 1345, 1342, 1349 and 1350 of Mouza – Myahaowri, without any sanction and in violation of the order of status quo passed by the civil court in Title Suit No. 138 of 2022.

It appears that an order for implementation of the order of injunction in the nature of status quo with respect to the suit lands was also passed and

the Officer-in-charge, Bakultala Police Station was directed to look into the matter.

The petitioner further alleges that the lands have been classified as 'sali' and 'pukur' and without obtaining any conversion from the appropriate authority under the law, the constructions have been made.

Learned advocates for the respondent nos. 9 to 12 have separately handed over the copy of the sanctions granted by the concerned panchayat authority permitting such construction. It appears that the sanctions were granted prior to the institution of the suit. While the petitioner alleges that the constructions have continued even after the order of injunction in the nature of status quo had been passed, the respondents argue that such construction was completed prior to the institution of the suit. It is specifically submitted that no construction was carried out after the order of status quo.

The disputed questions of fact as to whether there has been any violation of the order of status quo cannot be decided by the writ court. The petitioner is at liberty to take appropriate steps before the learned civil court, with regard to the allegation of violation of the order of injunction.

It also appears that the police authorities were directed to take necessary steps for implementation of the order of injunction. It is expected that if the petitioner moves the learned court below, the learned court will deal with such issues in accordance law.

Although it appears that conversion of some of the plots have been made, this court is not in a position to come to a conclusive decision in this regard. The petitioner is at liberty to approach the appropriate authorities under the West Bengal Land Reforms Act with his allegations of illegal user of the lands in question without proper conversion.

However, the concerned panchayat authorities as also the police authorities shall ensure that the order of the civil court is not violated till such further orders are passed by the civil court.

Whether the sanction had been given in accordance with law or not, is not within the scope of this writ petition and, as such, such question shall be decided at an appropriate stage and in an appropriate proceeding if the petitioner raises such issue.

The writ petition is disposed of with the above observations. The merits of the issues involved have not been gone into.

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.)