

21.09.2022
Court No. 19
Item no.02
CP

W.P.A. No. 21104 of 2022

Dr. Tapan Kumar Halder

Vs.

The State of West Bengal & Ors.

Mr. Anirban Das

.....for the petitioner.

Mr. Apurba Krishna Das

Mrs. Pronoti Goswami

....for the respondent no. 6.

The petitioner alleges that the respondent no. 6 did not take any permission for construction of his dwelling house on Plot No. 127 of Mouza – Silda. The further allegation made is that the mandatory open spaces required by the rules, have not been maintained.

The learned advocate for the respondent no. 6 has handed over a copy of the sanction and the permission granted by the gram panchayat with certain terms and conditions, sometime in 2017. It is submitted that the construction was raised on the basis of the said plan.

It appears from the said documents that the Block Land & Lard Reforms Officer, had made an enquiry and intimated the pradhan, Silda Gram

Panchayat that Plot No. 127 was recorded in the name of the respondent no. 6.

There are no rival claims to title. The allegation of construction without a plan is also not substantiated as documents have been filed by the respondent no. 6 to show that the construction and the plan was approved and permitted by the authority. The only issue is whether the respondent no. 6 had constructed the house in accordance with the plan and by maintaining the rules.

Under such circumstances, the writ petition is disposed of with a direction upon the Silda Gram Panchayat to dispose of the representation of the petitioner dated September 6, 2019, in accordance with law. 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 no. 6. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 6 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 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 petitioner and the respondent no. 6. 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.

The court has not gone into the merits of the claims.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

The issue to be decided is whether the construction has been made in accordance with the permission granted by the authority and in accordance with the building rules.

A copy of the writ petition along with a server copy of this order be served upon the concerned gram panchayat, for necessary compliance 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.)