

19.09.2022
Court No. 19
Items 7 & 8.
CP

W.P.A. No. 21236 of 2022

Raju Naskar & ors.

Vs.

The State of West Bengal & Ors.

With

W.P.A. No. 19790 of 2022

Sri Sudhanya Naskar & anr.

Vs.

The State of West Bengal & ors.

Mr. Pankaj Halder

Mr. Tapas Manna

.....for the petitioners in
W.P.A. No. 21236 of 2022 and
respondent nos. 9 & 10 in
W.P.A. No. 19790 of 2022.

Mr. Mujibar Rahaman

Mr. Abdus Salam

....for the State.

Mr. Soumik Ganguli

....for the respondent no. 10.

Mr. Tanmoy Mukherjee

Mr. Souvik Das

Mr. Rudranil Das

....for the petitioners in
W.P.A. No. 19790 of 2022
and respondent nos. 9 & 10
in WPA 21236 of 2022.

Mr Sounak Bhattacharya

Mr. Chandra Nath Sarkar

Mr. S. Mandal

...for the respondent no. 11
in WPA 21236 of 2022.

Sk. Rejaul Alam

....for the respondent no. 8.

Both these writ petitions are disposed of together in order to avoid multiplicity of proceedings.

In W.P.A. No. 21236 of 2022, the petitioners have alleged unauthorized construction by the respondent nos. 9 and 10. It is submitted that the respondent no. 11 was wrongly implicated.

In W.P.A. No. 19790 of 2022, the respondent nos. 9 and 10 of W.P.A. No. 21236 of 2022, have challenged the unauthorized constructions of the petitioners of the said writ petition.

The panchayat authorities are before this court and it is submitted that, prima facie, there appears to be illegality in both the alleged constructions.

This court is not inclined to decide the correctness of the allegations made by either of the parties in respect of the constructions. The panchayat authorities are empowered by law to adjudicate such issues.

Both the writ petitions are disposed of with a direction upon the authorities of Sahajadapur Gram Panchayat, to treat both the writ petitions as respective complaints of the parties and dispose of the same in accordance with law.

While doing so, the following procedure shall be adopted:

- a) An inspection of both the constructions shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos. 9 & 10 in W.P.A. No. 21236 of 2022. An advance notice of the inspection shall be served upon the petitioners and the respondent nos. 9 & 10 in W.P.A. No. 21236 of 2022 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 constructions were without permission or in violation of the rules, and was continuing, the authorities may take such interim measures by stopping such constructions.
- c) Reports of such inspections shall be prepared along with the sketch maps, indicating the extent and nature of unauthorized construction, if any.
- d) Such reports shall be handed over to the parties.

- e) Hearing shall be given to the petitioners and the respondent nos. 9 & 10 in W.P.A. No. 21236 of 2022. The parties must also be allowed to furnish their respective written objection/version to the said reports 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) Two separate reasoned orders shall be passed and communicated to the concerned parties in respect of the two constructions. 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 of the parties.

The question of deemed sanction and non-action on the part of the panchayat authorities with regard to the sanction plan, allegedly submitted by the petitioners in W.P.A. No. 21236 of 2022, shall also be considered.

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

The question of title, possession and boundary etc. shall not be decided by the panchayat authorities. The only question to be decided by the panchayat authorities would be, whether the construction has been made without any permission and/or in violation of the building rules and the relevant laws.

A copy of the respective writ petitions along with a server copy of the order be served upon the concerned gram panchayat, by the respective parties for necessary compliance of this order.

Accordingly, the writ petitions are 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.)