

21.09.2022
Court No. 19
Item no.08
CP

W.P.A. No. 21330 of 2022

Sahadeb Sardar

Vs.

The State of West Bengal & Ors.

Mr. Debabrata Sardar

.....for the petitioner.

Mr. Manoj Malhotra

Mr. Suman Dey

....for the State.

The writ petition lacks material particulars and cannot be entertained in its present form. The petitioner has made a stray allegation that the respondent no. 6 had raised a construction on L.R. Plot No. 683 of Mouza – Kuldia illegally. The petitioner relies on a decree of a civil court in support of his title in respect of the said land.

The complaint which was filed before the panchayat authorities does not indicate the nature of the unauthorized construction which the petitioner has alleged. The petitioner has asserted his title before the authority and has requested the authority to take steps on the basis of a decree passed in the title appeal.

Neither this court nor the panchayat authorities can decide the issue of title and

encroachment. The panchayat authorities or the permission granting authority can only adjudicate whether a construction has been made without a plan and in violation of the plan, or in violation of the building rules.

Under such circumstances, the writ petition is disposed of without any orders, but by granting opportunity to the petitioner to approach the gram panchayat and/or the permission granting authority, in accordance with law mentioning the reason as to why the alleged construction according to the petitioner, is unauthorized.

If such application is made, the same shall be disposed of in accordance with law by the permission granting authority. If it appears during inspection that the permission granting authority is the Zilla Parishad, then the matter will be referred to the Zilla Parishad.

The following procedure shall be adopted by the permission granting authority:

- 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 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 receipt of the application.

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 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.)