

S/L 122
23.09.2022
Court. No. 19
sn

W.P.A. 21421 of 2022

Masudan Bibi & Anr.
VS
The State of West Bengal & Ors.

Mr. Siddhartha Sarkar
Mr. Prasad Bhattacharyya ...for the Petitioners

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee ..for the State

Mr. Debrup Bhattacharjee
Mr. Ritesh Kr. Ganguly ..for the respdt.4

Affidavit-of-service filed in Court today, be kept with the record.

As this Court is not inclined to pass any mandatory direction as prayed for by the writ petitioners, but is relegating the entire issue to be determined by the appropriate authority, the writ petition is taken up and disposed of in the absence of the non-appearing respondents.

The petitioners allege that the respondent no.4 has been raising unauthorized construction without any permission and without conversion of land from 'jal' to 'bastu' on dag no. 81/335 of mouza Ruisonda.

Learned advocate for the respondent no.4 submits that a civil suit is pending between the parties and being unsuccessful in obtaining an order of injunction, the petitioners are trying to create pressure by filing the writ petition and seeking interference by the panchayat authorities.

It appears that the petitioners approached the panchayat authorities by filing a representation dated August 25, 2022.

Under such circumstances, this writ petition is disposed of with a direction upon the panchayat authorities to consider and dispose of the complaint of the petitioners in accordance with law.

The question of title, boundary disputes and encroachment etc. shall not be decided by the authorities.

If it is found that the permission granting authority in this case would be the zilla parishad, then the matter shall be referred to the zilla parishad by the gram panchayat for necessary action.

The permission granting authority or the competent authority, shall dispose of the representation of the petitioner, 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 petitioners and the respondent no.4. An advance notice of the inspection shall be served upon the petitioners and the respondent no.4 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 had been 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. The question of right, title and possession shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioners and the respondent no.4. 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 accordance with law.

The court has not gone into the merits of the claims of the petitioners and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of four months from date of receipt of the complaint of the petitioner.

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.)