

13.12.2022
Court No. 19
Item no.13
CP

WPA No. 21534 of 2022

Idrish Molla & anr.
Vs.
The State of West Bengal & Ors.

Mr. Debabrata Sardar

... for the petitioners.

Despite service, none appears on behalf of the respondent no. 6.

As the Court is not inclined to pass mandatory directions against the said respondent but is relegating the entire dispute for adjudication by the competent authority under law, the writ petition is taken up in his absence.

The petitioner alleges that the respondent no. 6 had raised an unauthorized construction on L.R. Plot No. 1201 corresponding to Khatian No. 991 J.L. No. 61 at Mouza – Bankachuya. It is contended that such construction could not have been raised without permission from the panchayat authorities. Further allegation is that the said construction had obstructed the ingress and egress of the petitioners. Accordingly the petitioner approached the Pradhan, Bhogali Gram Panchayat-II, by filing a representation dated August 25,

2022. The said representation has not yet been considered by the panchayat authorities.

Under such circumstances, the writ petition is disposed of with a direction upon the Bhogali Gram Panchayat-II to dispose of the petitioners' representation 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. 6. An advance notice of the inspection shall be served upon the petitioners 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 petitioners 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. The issue whether at the relevant point of time the panchayat laws were applicable or not, must also be looked into.
- 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. All points raised by either of the parties shall be decided by the authority.

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 issues with regard to 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.)