

23.09.2022
Sl. No.129(DL)
srm

W.P.A. No. 21675 of 2022
Omkar Nandan Ghosh
Vs.
State of West Bengal & ors.

Mr. Lutful Haque
.....for the Petitioner.

Mr. Malay Singh,
Mr. Bibek Kumar Tripathy
.....for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.3, 4 and 6.

As this Court is not passing any mandatory directions, as prayed for in the writ petition, but is relegating the matter to the appropriate permission granting authority under the law for consideration, the writ petition is taken up in their absence.

The petitioner alleges that the respondent No.6 had raised a construction on LR Plot No.3758 pertaining to Khatian No.4192 in mouza Khargram, District-Murshidabad without keeping any side space. According to the petitioner, the respondent No.6 does not have any sanction to raise the construction. It is further alleged that

the mandatory vacant space as per the building rules has not been maintained. The petitioner also submits that a representation dated July 25, 2022 alleging unauthorized construction was filed, but the same has not been acted upon.

Without going into the merits of the claims of the petitioner, the writ petition is disposed of with a direction upon the competent authority of the Khargram Gram Panchayat, District-Murshidabad to consider and dispose of the representation of the petitioner dated July 25, 2022, being Annexure P-3 to the writ petition, in accordance with law and independently. If it appears 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, while disposing of the matter:

- 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 and the issues involved shall be decided independently.

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

The question of title, possession and boundary etc. shall not be decided by the authorities. The only question to be decided by the 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.

The report of the Officer-in-Charge, Khargram policed Station is taken on record.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)