

S/L 13
28.09.2022
Court. No. 19
GB

W.P.A. 21869 of 2022

Tutul Majila
VS
The State of West Bengal & Ors.

*Mr. Mrinal Ghosh,
Mr. Subhasis Bandopadhyay.*

...for the Petitioner.

*Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata.*

...for the State.

*Mr. Uttiya Ray,
Mr. Arnab Mandal.*

...for the Respondent Nos.12 to 14.

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

The petitioner alleges that the Bardhaman Development Authority, the Rayan-I Gram Panchayat and the Block Development Officer, Bardhaman-I Development Block had failed and neglected to take steps in respect of the unauthorized construction raised by the respondent nos.12 to 14. It is submitted that despite several communications from the office of the Bardhaman Development Authority, the panchayat authorities sat tight over the matter and instead of initiating proceedings under the law, called the parties for a settlement. It is submitted that the law does not empower the authority to settle the issue, especially when the construction is not in accordance with the relevant Rules.

Mr. Ray, learned advocate for the respondent nos.12 to 14 submits that no new construction has been made. Some repairs were made. Such repair works are exempted from permission. He further submits that an answer to the show

cause notice dated December 6, 2021 was filed before the Additional Executive Officer, Bardhaman Development Authority, Purba Bardhaman. The same was received by the authority on December 17, 2021. Thereafter, no further steps were taken by the authority, which gives rise to the presumption that the authority had accepted the explanation of the petitioner.

Be that at it may, the writ petition is disposed of with a direction upon the Chief Executive Officer, Bardhaman Development Authority, that is the respondent no.7 to dispose of the reply filed by the respondent nos.12 to 14 and pass necessary orders in accordance with law. During disposal of the same, a spot enquiry shall be made by the officer of the Bardhaman Development Authority, in presence of all the parties. A hearing shall be given to the said respondents and also to the petitioner. A reasoned order shall be passed and communicated to all.

If the authority accepts the contention of the petitioner, then no further steps shall be taken and such acceptance shall be indicated in the reasoned order. If the authority finds that the contentions of the petitioner are not correct and there have been unauthorized construction, without any permission, necessary steps to be taken in accordance with law.

This Court has not gone into the merits of the claims and counter-claims of the parties. All the issues are left open to be decided by the appropriate authority. The question of

title, encroachment and boundary disputes, etc., shall not be gone into.

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