

S/L 1
12.12.2022
Court. No. 19
sn

W.P.A. 22042 of 2022

Ajipan Bibi
VS
The State of West Bengal & Ors.

Mr. Ziaul Haque
Mr. Himadri Kr. Mahata

...for the Petitioner.

Mr. Rama Prasad Sarkar
Ms. Debarati Sën(Bose)

...for the State.

Mr. Jaydip Basu
Mr. Sugata Mukherjee

..for the respdts.3-5

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

Despite service, none appears on behalf of the
respondent nos.6&7. As this Court is not passing any
mandatory orders in terms of the prayers made in the writ
petition, but is relegating the entire matter before the
competent authority to decide the allegation of unauthorized
construction, the matter is taken up in the absence of the
said respondents.

The petitioner alleges that the respondent nos. 4 to 7
have raised a construction on a portion of the land on plot
no. plot no. 693 of mouza Aksara of which the petitioner
claims to be a co-sharer. The allegation is that the said
respondents had raised the construction without any
permission from the panchayat authorities.

Learned advocate for the respondent nos. 3 to 5
submits that the records do not reveal that any permission
had been granted by the panchayat authorities.

As the allegation is with regard to unauthorized construction, without going into the merits of allegations and correctness thereof, this Court deems it fit to direct the permission granting authority, that is, the Chamarail Gram Panchayat to dispose of the complaint of the petitioner dated September 8, 2022 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 petitioner and the respondent nos.4 to 7. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.4 to 7 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 questions of right, title, possession and boundary disputes, shall not be decided by the panchayat authorities.

- e) A hearing shall be given to the petitioner and the respondent nos.4 to 7. 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 Section 23(5) of the West Bengal Panchayat Act, 1973.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently, upon hearing the parties.

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.)