

12.12.2022  
Sl.No.2  
Ct.19  
sn

**WPA 22045 of 2022**

**Sabita Pandit**  
**Vs.**  
**The State of West Bengal & Ors.**

**Mr. Sudipto Panda**  
**Mr. Subrata Ghosh**  
**Mr. Sajal Pandit**  
**..for the petitioner**

**Mr. Sudip Sarkar**  
**..for the respdts.14-16**  
**Mr.Satyendra Agarwal**  
**Mr. Binoy Bag**  
**..for the respdts.11-13**

The petitioner claims to be a co-sharer in respect of LR Dag no. 509 of mouza Mandra.

The petitioner alleges that the respondent nos. 11 to 16 have raised constructions without any demarcation and without conversion of the land from “Bans Bagan” to “Bastu”. With the above allegations, a complaint was filed before the Pradhan of Mandra Gram Panchayat on September 29, 2022.

The contention is that the panchayat authorities could not have given permission to raise such construction without conversion of the land to homestead land.

Learned advocate for the respondent nos. 11 to 16 submits that the land was always used as a bastu land. As per the records CS and RS plot nos. 447, 449 and 704 were Bastu and Bhatti. The plots were amalgamated without any notice to the said

respondents and classified as “Bans Bagan”. LR plot 509 was created upon amalgamation of the said plots.

Learned advocates for the respective private respondents have relied on the RS and CS record of rights in order to show that the lands were earlier classified as Bhatti and Bastu.

Certain documents have been placed before the Court which show that the conversion was allowed by the competent authority under Section 4C of the West Bengal Land & Land Reforms Act, 1955, by an order dated May 31, 2022. Learned advocate for the said respondents further contends that the permission to raise the constructions were granted by the panchayat authorities sometime in 2011. The classification of the land to “Bans Bagan” had been done after amalgamation of the plots, but the petitioner applied for permission on the basis of RS records in which the plots had been classified as Bhatti and Bastu.

Learned advocate for the respondents relied on a judgement of this Court in the matter of **Sitala Prasad Jaiswal & Ors. Vs. The State of West Bengal & Ors. Reported in 2005(1) CLJ (Cal) 63**, wherein it was held that if a land had been used for a residential purpose prior to coming into operation of the provisions of Section 4C of the West Bengal

Land Reforms Act, 1955, that is, before August 7, 1969, subsequent permission from the authorities for alteration in the mode of use of the said land would not be required, irrespective of the classification of the land.

The respondents urge that assuming that the land was classified as Bans Bagan in the LR records, the fact that the same were recorded as Bhitti and Bastu in the CS and RS record could not be denied either by the petitioner or by the authorities. That the allegation of non conversion of the land to Bastu after the LR records had been published, was baseless. No further permission was required to be taken as the land had already been used as Bastu. Practically, there was no change of user.

Learned advocate for the petitioner refutes such arguments of the respondents and submits that the construction was made after the LR records had been published. The Panchayat authorities did not have any right to allow such construction in view of the bar under Rule 26 of the West Bengal (Gram Panchayat Administration) Rules 2004.

Heard the parties. The issues are whether the permission to construct and/or the approval of the plan granted by the panchayat authorities were in accordance with law. Whether such construction could be allowed to continue. Whether Rule 26 of the

West Bengal (Gram Panchayat Administration) Rules 2004 would be applicable or not.

The other allegations of co-ownership, title, demarcation and obstruction to the ingress of egress of the petitioner, shall not be gone into by the panchayat authorities as these are to be decided in a proper forum.

The permission granting authority i.e., the Mandra Gram Panchayat shall dispose of the complaint dated September 29, 2022, in accordance with law. On the basis of the findings, steps shall be taken with regard to the alleged sanction and the construction, strictly in accordance with law.

A reasoned order shall be passed and communicated to all. All parties shall be heard.

This writ petition is disposed of.

There will be, however, no order as to costs.

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

**(Shampa Sarkar, J.)**