

S/L 27
31.10.2022
Court. No. 19
GB

W.P.A. 22310 of 2022

Jharna Halder & Ors.
VS
The State of West Bengal & Ors.

Mr. Mahammad Mahmud.

...for the Petitioners.

*Ms. Sutapa Sanyal,
Mr. Anand Farmania.*

...for the State.

Mr. Gazi Faruque Hossain.

...for the Respondent No.6.

The petitioners allege that the respondent no.6 has made a boundary wall and a toilet on L.R. Plot No.1849 pertaining to L.R. Khatian No.252 of Mouza – Gurap, without leaving the mandatory 3ft. wide space, as required under Rule 24 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004.

This is a factual allegation, which cannot be gone into by the writ Court.

Under such circumstances, the writ petition is disposed of with a direction upon the authorities of the Gurap Gram Panchayat to dispose of the objection, raised by the petitioners dated September 9, 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 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 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 question of right, title and possession shall not be decided by the panchayat authorities.
- 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.
- 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.

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.)