

S/L 24
09.11.2022
Court. No. 19
GB

W.P.A. 22438 of 2022

Kazi Ruhul Amin
VS
The State of West Bengal & Ors.

Sk. Md. Ismail,
Mr. Aritra Ghosh.

...for the Petitioner.

Ms. Jeenia Rudra,
Ms. T. Kumari.

...for the State.

Mr. Sani Hossain,
Ms. Salma Sultana Shah,
Mr. Miraj Hossain.

...for the Respondent No.9.

The petitioner alleges unauthorized construction by the respondent no.9.

The learned advocate for the respondent no.9 submits certain documents to show that an application for permission was filed along with a building plan and the money had also been deposited before the Sripatipur Ilahipur Gram Panchayat. It is further submitted that conversion has also been applied for.

The learned advocate for the state submits that the panchayat authorities had verbally informed that no permission has yet been granted.

The learned advocate for the petitioner also draws the attention of the Court to the classification of the land and submits that unless the land is converted to Bastu, permission cannot be granted by the panchayat authorities.

Under such circumstances, without going into the merits of the claims and counter-claims of the parties, this

writ petition is disposed of with a direction upon the Sripatipur Ilahipur Gram Panchayat to dispose of the representation/complaint of the petitioner dated September 1, 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 no.9. An advance notice of the inspection shall be served upon the petitioner and the respondent no.9 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 petitioner and the respondent no.9. 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.)