

31.10.2022
Sl. No.31(DL)
srm

W.P.A. No. 22449 of 2022
Ananta Kumar Das
Vs.
The State of West Bengal & ors.

Mr. Siddhartha Banerjee,
Mrs. Krishna De Das,
Mr. Soumajit Majumder,
Mr. Rakib Hassan

....for the Petitioner.

Affidavit of service is taken on record. Despite service, none appears on behalf of the respondents.

As this Court is not inclined to go into the merits of the allegations made by the petitioner, but deems it fit to relegate the entire issue to the appropriate permission granting authority under the law, the writ petition is disposed of in their absence.

The petitioner has alleged that a one-storeyed house is being constructed by the respondent Nos.9 and 10 on Dag No.366 of mouza Rampura, J.L. No.393 under Mohanpur 3 No. Gram Panchayat, District-Paschim Medinipur.

It is alleged that the construction measures about 700 sq.ft. and no permission had been granted by the

panchayat authorities. Rather, it is alleged that the panchayat authorities encouraged such construction.

With regard to the plea that the petitioner is the lawful owner of the plot in question and the consequential prayers, which have been made on the basis of such claim, this Court is of the view that neither the writ court nor the panchayat authorities are empowered to pass any orders. These issues are to be decided by an appropriate civil court and the petitioner is at liberty to approach the appropriate court in accordance with law. This proceeding is restricted only to the allegation of unauthorised construction.

The writ petition is disposed of with a direction upon the authorities of Mohanpur 3 No. Gram Panchayat, to dispose of the demand of justice made by the petitioner through his learned Advocate dated June 20, 2022, in accordance with law. While doing so, the following procedure shall be adopted by the authority empowered by the law to take steps in this regard:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of all parties, with 48 hours advance notice to the petitioner and the respondent Nos.9 and 10.

- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioner as also the interested parties.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and is continuing, the authorities may take interim measures by stopping such construction.
- e) A hearing shall be given to the petitioner and all the parties. 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.
- 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 the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

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

The writ petition is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)