

S/L 27
09.11.2022
Court. No. 19
GB

W.P.A. 22527 of 2022

Jahangir Meer & Ors.
VS
The State of West Bengal & Ors.

Md. Giasuddin Mulla.

...for the Petitioners.

*Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata.*

...for the State.

*Mr. Falguni Bandyopadhyay,
Ms. Sreetama Neogi,
Ms. Riya Ballav.*

...for the Respondent Nos.7 & 8.

The petitioners allege that the respondent nos.7 and 8 have raised certain unauthorized constructions.

The complaint, being Annexure-P/2 at Page 16 of the writ petition is vague and devoid of material particulars. The reasons why the petitioners lodged such complaint and the basis of the allegation that the construction was unauthorized, has not been disclosed. There is only an apprehension that the respondent nos.7 and 8 might construct unauthorizedly. The writ Court cannot pass any orders on the basis of surmise and conjecture of the petitioners.

The writ petition is disposed of granting liberty to the petitioners to file a composite objection before the Banota Gram Panchayat. If such objection is filed, the same shall be disposed by adopting the following procedure:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos.7 and 8. An advance notice of

the inspection shall be served upon the petitioners and the respondent nos.7 and 8 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 nos.7 and 8. 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 petitioners 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.)