

13.12.2022
Court No. 19
Item no.23
CP

WPA No. 22692 of 2022

Harisadhan Halder & anr.
Vs.
The State of West Bengal & Ors.

Mr. Pankaj Halder
Mr. Sanatan Panja
Mr. Tapas Manna

... for the petitioners.

Ms. Sima Adhikari
Ms. Kakali Naskar

...for the State respondents.

Mr. Indranath Mitra

...for the respondent no. 8.

The petitioners are aggrieved by the resolution which was adopted by the Raidhigi Gram Panchayat. Such resolution was adopted on September 12, 2022. The resolution states that the petitioners could not produce any document in support of their contention that their father had submitted a plan with requisite fees seeking permission to construct a house on L.R. Plot No. 4413 pertaining to Khatian No. 491, JL No. 110 of Mouza – Raidighi Abad.

The resolution indicates that the authority could not assess when and how a construction

along with columns over the ground floor had been made.

As of now, only a few columns have been erected above the existing structure. The construction has been found to be unauthorized and without any plan.

Learned advocate for the petitioners submits that the provision of deemed sanction was squarely applicable in this case as the plan which was submitted by the father of the petitioners along with requisite fees had not been processed by the authority. It is alleged that such plea was not taken into consideration by the gram panchayat when such resolution was passed.

Learned advocate for the added respondent/complainant relies on an order of this court. By the said order, the Raidhigi Gram Panchayat was directed to decide the question of unauthorized construction raised by the petitioners.

Such resolution was adopted by the panchayat authorities upon hearing the petitioners. Learned Advocate further refers to the receipt relied upon by the petitioners in support of the petitioners' contention that their father had deposited Rs.100 along with the plan before the panchayat authorities. He submits that the

amount was deposited for construction of a shop room in Rai Bazar. Such construction was to be made with brick walls and tin shed. The brick wall and tin shed has been penned through in the said receipt.

It is surprising why the petitioners could not produce such documents at the hearing. In any event, the panchayat authorities only arrived at the conclusion that the construction of the petitioners was not authorized by law and without a plan. Further, steps have not yet been taken.

Under such circumstances, the panchayat authorities are directed to refer the matter to the Sub-Divisional Officer in terms of Section 23(5) of the West Bengal Panchayat Act, 1973. The concerned Sub-Divisional Officer shall allow the petitioners to file a written statement with all supporting documents. The plea of deemed sanction shall also be decided. The complainant, Madhai Mondal, shall be heard.

An inspection shall be made in the presence of the parties. A report of inspection shall be served upon all the parties, including the complainant.

All parties shall be heard and shall be allowed to submit their supporting documents and written versions.

A reasoned order shall be passed by the Sub-Divisional Officer in terms of Section 23(5) of the West Bengal Panchayat Act, 1973. On the basis of what transpires at the hearing before the Sub-Divisional Officer, steps shall be taken in accordance with law.

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.)