

22.11.2022
Sl. No.8(DL)
srm

W.P.A. No. 24249 of 2022
Syed Nurul Islam
Versus
The State of West Bengal & Ors.

Mr. Apurba Krishna Das
....for the Petitioner.

Ms. Shraboni Sarkar,
Mr. Debapriya Chatterjee
...for the State-respondents.

Mr. Snehasis Jana
...for the Respondent No.7.

Affidavit-of-service is taken on record.

The petitioner applied for approval of a building plan along with prescribed fees. The plan was sanctioned. Thereafter, a stop work notice was issued. Aggrieved, the petitioner enquired about the reason for issuance of such notice. No reasons were assigned.

The learned Advocate for the respondent No.7 submits that the property was undivided and under the garb of construction, the petitioner started demolishing the '*kaccha*' structure of the respondent No.7. Further allegation of encroachment has been made. Learned Advocate further submits that the signature of the respondent No.7 was forged

in the application form. Such allegation is denied by the petitioner.

The record of rights annexed to the writ petition reveals that Dag No.1808 of mouza Mulgram is recorded in the name of approximately fifteen co-sharers. Their proportionate share in the said land has been mentioned. The respondent No.7 claims to be the heir of a recorded co-owner, namely Samsul Bari.

Under such circumstances, the writ petition is disposed of with a direction upon the Mohanpur Gram Panchayat, District Paschim Medinipur, to grant a hearing to all the parties.

All the other co-sharers shall be heard. The petitioner may submit relevant documents including the alleged deed of partition of 1952. In any event, the authority shall cause a demarcation of the land of the petitioner by requesting the concerned Block Land and Land Reforms Officer to send the Amin for the purpose of demarcation and measurement of the land belonging to the petitioner which was allegedly partitioned on the basis of the partition deed.

A report and a sketch map shall be prepared and handed over to the parties. Thereafter, the panchayat authorities shall proceed to deal with the issue and take a decision as to whether the permission already granted may

be continued or required alteration or modification on the basis of the demarcation. If the alleged construction is found to be within the demarcated area of the petitioner, the petitioner may continue to construct in accordance with law, without disturbing any other co-sharer.

If it is found that the approval had gone beyond the demarcated area of the petitioner, the authority shall ask the petitioner to file a revised plan.

Thereafter steps shall be taken by the gram panchayat, in accordance with law. The decision of the gram panchayat shall be communicated to the parties.

The entire exercise shall be completed within a period of six weeks from the date of communication of this order. Till such decision is taken, no construction shall be made.

The petitioner is directed to serve a copy of this writ petition along with a server copy of this order upon the Pradhan of Mohanpur Gram Panchayat, District-Paschim Medinipur.

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.)