

21-11-2022
Item No.12
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.24363 of 2022
Jayshree Mondal @ Jayshree Sarkar & Anr.
-vs-
The State of West Bengal & Ors.

Mr. Mrityunjoy Chatterjee
Mr. R.R. Kumar
Mr. Debapriya Majumder
Mr. S. Biswas ...for the petitioners

Ms. Sudipa Roy
Mr. Srinath Singha Roy ...for the State

Mr. Usof Ali Dewan
Mr. Asif Dewan ...for the Pradhan

Md. Mokaram Hossain
Sk. Saifuddin
Mr. Sandipan Maity ...for the private respondents

The petitioners have challenged an order of demolition issued by the Pradhan, Sagardighi Gram Panchayat.

The contention of the petitioners is that the Pradhan did not have jurisdiction to issue such order. The petitioners also contend that no hearing or inspection preceded such order. Referring to an order of this court dated September 21, 2022, the petitioners submit that on the complaint raised by the seventh and eighth respondents, this court had directed the concerned permission-granting authority, namely the Sagardighi Gram Panchayat, to dispose of such complaint alleging unauthorised construction by the petitioners.

Taking the court through the criteria laid down with regard to the procedure to be followed by the concerned

Gram Panchayat, it is submitted that the inspection was not held; report was not prepared; and no hearing was given.

Mr Dewan, learned advocate appearing for the Gram Panchayat, submits that notice was sent to the petitioners but the petitioners did not attend the inspection and the hearing.

It is further submitted that the petitioners did not receive the inspection report.

Learned advocate appearing for the private respondents submits that the Gram Panchayat authorities had duly inspected the plot in question upon notice, but in the absence of the petitioner as the petitioner chose to stay away.

Mr Dewan subsequently submits that the authorities took steps to comply with the order of this court, but the petitioners did not cooperate.

As the petitioners have approached this court challenging the order of demolition issued by the Pradhan, interference of this court is required on the ground that the Pradhan could not have issued the demolition order without referring the matter to the concerned sub-divisional officer under section 23(5) of the West Bengal Panchayat Act, 1973.

This court is of the view that justice would be subserved if a further inspection and hearing is done in the presence of the parties.

The apprehension of Mr Dewan that the petitioners will again not cooperate by not receiving the notice can be put to rest. This court intends to fix the date of inspection here and now. No further notice shall be given to the parties.

Let such inspection be held on November 28, 2022 at 11 a.m. in respect of LR Plot No.2957, Mouza Popara. Both parties shall be present. If either of the parties remains absent, inspection shall be held by the panchayat authorities and report shall be prepared and supplied.

Once the parties receive the report, they shall be at liberty to file their objection and thereafter hearing shall be given. Parties will be entitled to make their submission, and adduce evidence, both oral and documentary, in support of their respective case. Upon hearing the parties, a reasoned order shall be passed and the shall be communicated to the parties. In case of detection of unauthorised construction, the matter shall be referred to the concerned sub-divisional officer under section 23(5) of the West Bengal Panchayat Act, 1973 for necessary action. The entire exercise shall be completed within two months from the date of inspection.

Accordingly, the order dated September 21, 2022 stands set aside.

The writ petition is thus disposed of. No order as to costs.

[Shampa Sarkar, J]

