

21-11-2022
Item No.13
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.24425 of 2022
Ashoke Kumar Pal & Anr.

-vs-

The District Magistrate and Collector, Chinsurah & Ors.

Mr. Somnath Ghoshal
Ms. Anuparna Chakraborty
Mr. Satyajit Senapati ...for the petitioners

Affidavit of service filed is taken on record. Despite notice, none represents the respondents. This court is not inclined to pass any mandatory directions adverse to the interest of the private respondents, but is relegating the matter for determination by the competent authority. The writ petition is taken up for hearing, in their absence.

The petitioners allege that the private respondents Nos.7-9 have raised a G+1 construction on Dag no.524 Mouza-Dakshindihi without any sanction and without conversion of the said land to homestead land. The petitioners claim to be co-sharers in respect of the said plot of land.

A representation with the above allegation was filed before the panchayat authorities on October 21, 2022. The same is annexed at page 15 of the writ petition.

Without going into the merits of the claim of the petitioners and without addressing the factual disputes which have been raised, the writ petition is disposed of with a direction upon the permission-granting authority, i.e. the Furfura gram panchayat, to dispose of the petitioners' representation in accordance with law. While doing so, the

concerned Gram Panchayat shall adhere to the following procedure.

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondents no.8 and 9. An advance notice of the inspection shall be served upon the petitioners and the respondents no.8 and 9 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 respondents no.8 and 9. 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 petitioner 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]

