

21-11-2022
Item No.23
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.24802 of 2022
Shibprasad Ghosh
-vs-
The State of West Bengal & Ors.

Mr. Probal Sarkar ...for the petitioner

Mr. Shibasis Chatterjee ...for respondent no.12

The petitioner alleges that respondents no.8 to 12 had raised a construction without any permission.

Without going into the merits of the claims of the petitioner, the writ petition is disposed of with a direction upon Kiriteswari Gram Panchayat, the seventh respondent, to dispose of the representation of the petitioner (which was received by the Pradhan on May 5, 2022) strictly 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 to 12. An advance notice of the inspection shall be served upon the petitioners and the respondents no.8 to 12 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.8-12. 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 submission of the learned advocate appearing for respondent no.12 that the construction of the toilet during pendency of the partition suit would not require a permission as per the rules, shall also to be considered.

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]