

S/L 48
19.12.2022
Court. No. 19
sn

W.P.A. 25300 of 2022

Sajibul Sk.
VS
The State of West Bengal & Ors.

Mr. Sarbananda Sanyal
Ms. Poulumi Chakraborty

...for the Petitioner.

Affidavit-of-service filed in Court today, be kept with the record.

Despite service, none appears on behalf of the respondent nos.4 to 11. As this Court is not passing any mandatory orders in terms of the prayers made in the writ petition, but is relegating the entire matter before the competent authority to decide the allegation of unauthorized construction, the matter is taken up in the absence of the said respondents.

The petitioner alleges that the respondent nos. 6 to 11 have started raising unauthorized construction on Dag nos. 1930,1950,1929,1928 and 1035 of mouza Lalgola. No permission had been taken for such construction. It is further submitted that the lands have not yet been partitioned and the respondent nos.6 to 11 do not have any right, title and claim over the said land.

The issue of title over the said lands in question, cannot be gone into either by this Court or by the panchayat authorities. The only question which can be adjudicated is whether the respondent nos.6 to 11 had raised construction

with the permission from the authorities and in accordance with the building rules.

By a letter dated June 28, 2022, the petitioner informed the Pradhan of the concerned Gram Panchayat about the alleged illegal construction.

Under such circumstances, this writ petition is disposed of with a direction upon the Lalgola Gram Panchayat to dispose of the representation of the petitioner dated June 28, 2022 in accordance with law.

While doing so, the following procedure shall be adopted:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos. 6 to 11. An advance notice of the inspection shall be served upon the petitioner and the respondent nos. 6 to 11 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 questions of right, title, possession and boundary disputes, shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioner and the respondent nos.6 to 11. 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, upon hearing the parties.

The entire exercise shall be completed within a period of four months from the 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.)