

20.12.2022
Sl. No.49(ML)
srm

W.P.A. No. 25308 of 2022
Aijul Islam & Ors.
Versus
The State of West Bengal & Ors.

Md. Younush Mondal
...for the Petitioners.

Mr. Pantu Deb Roy,
Mr. Anand Farmania
...for the State-respondents.

Mr. Md. Yusuf Ali
....for the Respondent Nos.9 to 12.

Affidavit-of-service is taken on record.

The petitioners allege that the respondent Nos.9 to 12 are raising illegal structures on Plot nos.1207, 1208 and 1209 of mouza Swarupnagar, District-North 24-Parganas.

It appears that a title suit is pending before the learned Civil Judge (Junior Division), 1st Court at Basirhat, North 24-Parganas. The allegation is that the respondent Nos.9 to 12 forcefully took possession of the lands in question and started construction. The petitioners filed an application under Section 156 of the Code of Criminal Procedure before the jurisdictional Magistrate, but no orders were passed. It further appears that several complaints were lodged before the police authorities, but no action was taken in favour of

the petitioners. The allegation is that the construction on the said plots in respect of which a title suit is pending, is continuing.

The learned Advocate for the respondent Nos.9 to 12 submits a plan sanctioned by the Begumpur Bibipur Gram Panchayat, District-North 24-Parganas on September 16, 2014. Such plan was approved for a two-storeyed building on Plot No.1208. With regard to the construction on Plot No.1207, the learned Advocate for the said respondents submits that the construction was more than 100 years old and the Panchayat Act was not applicable at that relevant point of time. It is specifically contended that no further construction had been undertaken on Plot Nos.1207 and 1208. With regard to the construction on Plot no.1209, it is contended that the respondent Nos.9 to 12 are not responsible for such construction. The constructions belong to third parties, who are not the respondents in this proceeding.

Under such circumstances, the writ petition is disposed of with a direction upon the Begumpur Bibipur Gram Panchayat, District-North 24-Parganas to treat the writ petition as the representation of the petitioners and dispose of the same by taking into account the facts as to whether the construction on Plot No.1208 had been constructed in terms

of the sanction granted and whether any new construction had been made on Plot No.1207 over and above the old existing building, which was allegedly in existence even before the building rules had come into force. A hearing shall be given to the parties. Necessary inspection shall precede such hearing. A reasoned order shall be passed and communicated to all. If any deviation or illegal construction is detected, the same shall be dealt with in accordance with law.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

This order shall not cover the construction on Plot No.1209, as the respondent Nos.6 to 8 have not taken any responsibility for such construction. The petitioner may take steps with regard to the constructions on plot No. 1209 by filing a representation before the authority.

A copy of the writ petition along with a server copy of this order be served upon the Pradhan of Begumpur Bibipur Gram Panchayat, District-North 24-Parganas.

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.)