

S/L 4
21.02.2022
Court. No. 19
GB

W.P.A. 24085 of 2019

Ruhidas Debnath & Anr.
VS
The State of West Bengal & Ors.

*Mr. Suddhasatva Banerjee,
Ms. Ayushi Kundu.*

...for the Petitioners.

*Mr. Goutam Narayan Bhattacharya,
Mr. Amit Roy.*

...for the Respondent No.11.

Pursuant to the direction of this Court, subsequent notice has been served upon the respondent no.11 as also upon the learned Government Pleader.

Despite service none appears either on behalf of the State respondents or on behalf of the respondent nos.8 to 10.

The petitioners allege that the respondent no.11 has made some illegal and unauthorized constructions on Plot No.3008, Khatian No.3698, Mouza-Rampur under Jaleswar-II Gram Panchyat. It is the specific contention of the petitioners that even in 2019, the query of the petitioners under the Right To Information Act were answered by the panchayat authority to the effect that no valid sanction plan had been approved in respect of Sri Dilip Das, the respondent no.11. The other allegation made by the petitioner is that the construction could not be made on an agricultural land.

It is alleged that the respondent no.11 and other persons using the said plot neither obtained requisite

permission for such construction, nor had the appropriate authority converted the user of the land from agricultural to bastu.

The learned advocate for the respondent no.11 has produced a blueprint purportedly with the plan, which was purportedly approved by the panchayat authority. It is further submitted that not only does the respondent no.11 reside on the said plot, but other persons also reside thereupon, and each of them has built their residential houses. It is further submitted that such plot was purchased in 1997 and there has been no illegality in the construction.

Having heard the rival contentions of the parties, this Court is of the opinion that the claims of the respondent no.11 are contrary to the information received by the petitioner dated July 29, 2019, with regard to the sanction plan. The other question is that there is nothing on record to show that the classification of the land was duly converted from sali/agricultural to bastu land.

In view of the disputed questions of facts, which have arisen and as the panchayat authorities are empowered under the law to look into allegations of unauthorized construction, this writ petition is disposed of with a direction upon the competent authority of the Jaleswar-II Gram Panchayat to dispose of the complaint of the petitioner dated November 30, 2019 in accordance with law upon hearing the petitioner, the respondent no.11 and all other interested parties who may be connected with the plot in question.

While disposing of the issues involved, the competent authority of the Jaleswar-II Gram Panchayat shall adhere to the following procedure:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondents within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondents and all other interested parties. If the parties are not available to accept notice, the authorities shall affix the notice of hearing and inspection at conspicuous places in their 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 was 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.

e) A hearing shall be given to the petitioner and the respondents. 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 the statute. The court has not gone into the merits of the claims and the issues involved shall be decided independently.

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

Accordingly, the writ petition is disposed of.

There will be however no order as to costs.

All parties are directed to act on the basis of server copy of this order and/or the learned advocate's communication.

(Shampa Sarkar, J.)