

12.12.2022
Sl. No.31(DL)
srm

W.P.A. No. 26986 of 2022
Sunil Jana
Vs.
The State of West Bengal & ors.

Mr. Kapil Chandra Sahoo
.....for the Petitioner.

Mr. Kamalendu Ghose,
Mr. Raja Ghosh
.....for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.7 and 9 to 14.

As the Court is not inclined to pass mandatory directions in terms of the prayers, but is relegating the matter before the competent authority, the writ petition is taken up in their absence.

The petitioner has alleged that the respondent Nos.9 to 14 have raised a construction on LR Dag No.3408 of mouza Dubda. The petitioner claims to be a co-sharer. The allegations are three-fold. That the construction is being raised without permission from the permission granting authority. Secondly, that the building rules have not been

followed. Thirdly, the conversion of the land from '*sali*' to '*bastu*' has not been effected.

Reference has been made to Section 23 of the West Bengal Panchayat Act, 1973 read with Rule 26 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004 in this regard.

Without going into the merits of the allegations made by the petitioner, the writ petition is disposed of with a direction upon the Dubda No. 6 Gram Panchayat, District-Purba Medinipur, to dispose of the representation/complaint dated November 18, 2022 in accordance with law. While doing so, the gram panchayat shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent Nos.9 to 14, with 48 hours advance notice to the petitioner and the respondent Nos.9 to 14.
- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioner as also the respondent Nos.9 to 14.

- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and is continuing, the authorities may take interim measures by stopping such construction.
- e) A hearing shall be given to all the parties. 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.
- 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 provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

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

The police report filed by the State-respondents is taken on record.

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.)