

S/L 15
10.05.2022
Court. No. 19
GB

WPA 8181 of 2020

Prasenjit Nayek
VS
The State of West Bengal & Ors.

*Mr. Tapas Kumar Dey,
Mr. Sirsendu Sinha Roy.*

...for the Petitioner.

*Ms. Chama Mookherjee,
Ms. Paramita Pal.*

...for the State.

*Mr. Suman Basu,
Ms. Debawita Parmanik,
Mr. Gaurav Dutta.*

...for the Respondent Nos.9 & 10.

Mr. Tarak Nath Halder.

...for the Respondent No.11.

The petitioner has alleged that the respondent no.11 has made certain unauthorized construction on Dag No.114 pertaining to Khatian No.579, J.L. No.75, which is in the nature of a 'Shali' land. It is alleged that such construction has encroached into the portion purchased by the petitioner, measuring around 10 decimals.

The next contention is that the Hooghly Zilla Parishad has not taken any steps despite complaints of such alleged unauthorized construction.

Mr. Halder, learned advocate appearing on behalf of the respondent no.11 submits that permission for conversion of the land from 'Shali' to 'Vidyalaya' has been granted by the Block Land and Land Reforms Officer, Tarakeswar Hooghly. The said permission has been handed over to the Court and is kept on record. A copy of the sanction plan, vetted and approved by the Tarakeswar Panchayat Samiti has also been

submitted before the Court. It appears that the Executive Officer, Tarakeswar Panchayat Samiti approved the plan sometime in March 2020.

Reliance has been placed on Rule 27 of the West Bengal panchayat (Gram Panchayat Administration) Rules, 2004. It is alleged that neither the Gram Panchayat nor the Zilla Parishad is the permission granting authority. As the building of the respondent no.11 has a plinth area of more than 150 square metres, but less than 300 square metres and the height of the building is not more than 6.5 metre, the Panchayat Samiti was the vetting authority. Records have been produced before this Court, in support of such contentions.

Under such circumstances, this writ petition is misconceived as the petitioner has proceeded on the basis that the construction has been made without conversion of the land in question from 'Shali' to 'Bastu' and without sanction from the Zilla Parishad.

Accordingly, the writ petition is disposed of without any orders. This order shall not prevent the petitioner from approaching the appropriate authority in accordance with law, if the situation so arises in future.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)