

Item-17 17-01-2022

sg Ct. 19

WPA 9405 of 2020

Shyamal Kumar Mandal
Versus
The State of West Bengal & Ors.
(Through Video Conference)

Ms. Aaditri Dey, Adv.
...for the petitioner

Mr. Soumik Ganguli, Adv.
Mr. Sayan Roy, Adv.
Mr. Sourat Nandy, Adv.
Ms. Sampa Ghosh, Adv.
...for the respondent no.10

Mr. Pritam Choudhury, Adv.
...for the respondent no.11

Mr. Bibek Jyoti Basu, Adv.
Mr. Uttam Kumar De, Adv.
...for the State

The petitioner has claimed that the Pradhan and the other authorities of the Jogeshganj Gram Panchayat have failed to take steps despite several complaints lodged by the petitioner with regard to the alleged unauthorised construction made by the respondent no.11. According to the petitioner, the said construction is being carried on at Dag No. 895/1628, Mouza Patghara, JL No. 25 within North 24 Parganas.

The learned Advocate for the respondent no.10 submits that a preliminary inspection of the alleged plot was made by the competent authority of the Jogeshganj Gram Panchayat in the presence of the parties and also local witnesses, from which it appeared that the respondent no.11 was constructing on an another Dag which was around 11 feet away from Dag 895/1628 i.e. on Dag No. 897/1634.

The preliminary report is taken on record.

The police authorities have also filed a report before this Court inter alia stating that the construction was being made under the Pradhan Mantri Awas Yojana on the plot separate from the plot owned and occupied by the petitioner. However, the police authorities have initiated proceedings under Section 107 of the Code of Criminal Procedure.

Mr. Choudhury, learned Advocate appearing on behalf of the respondent no.11 submits that for a construction under PMAY-G Scheme, the respondent no.11 was not required to obtain any sanction/permission from the authorities as has been decided by this Court on earlier occasion.

Be that as it may, as there is a preliminary finding in favour of the respondent no.11, nothing remains to be decided in the writ petition. It is the authority concerned who has to ensure that all constructions even under the Pradhan Mantri Awas Yojana are being made in accordance with law. The question of title or encroachment shall not be gone into by the concerned Gram Panchayat.

However, the competent authority of Jogeshganj Gram Panchayat is directed to make a fresh inspection of the premises of the alleged construction in order to ascertain whether the said construction has been made in accordance with the rules, guidelines and permission granted to the respondent no.11 for a construction under the PMAY-G Scheme. The inspection report will be handed over to the parties. The parties must be allowed to file their written version/objection and a hearing shall be given to them.

If it is found that the said construction has been made in accordance with the guidelines and drawings approved for such construction under the PMAY-G Scheme, the authority shall pass a

reasoned order to that effect intimating the same to the parties. If it is found that the said construction is being made contrary to the provisions of law, then the Panchayat authority shall act and proceed accordingly. A reasoned order shall be passed in this regard and communicated to the parties.

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

Regarding the allegation of encroachment and the dispute with regard to the title of the parties, the parties are at liberty to approach the appropriate Civil Court in accordance with law.

WPA 9405 of 2020 is, accordingly, disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Shampa Sarkar, J.)