

16.01.2023
Sl. No.20(DL)
srm

W.P.A. No. 301 of 2023

Pranab Maity

Versus

The State of West Bengal & Ors.

Mr. Debjit Mukherjee,
Mrs. Susmita Chatterjee,
Ms. Dipanwita Ganguly,
Mr. K. Bhattacharya

....for the Petitioner.

Ms. Sipra Majumder,
Ms. Prativa Ghatak

...for the State-respondents.

Affidavit-of-service is taken on record. Despite service none appears none appears on behalf of the respondent Nos.5 and 7.

As this Court is not inclined to pass mandatory directions as prayed for, but is relegating the matter before the competent authority, the writ petition is taken up in their absence.

The petitioner alleges unauthorised construction by the respondent No.7 on LR Dag No.955 corresponding to J.L. No.64 within mouza Kamdebpur under the Amdanga Gram Panchayat, District-North 24-Parganas. The specific contention of the petitioner is that the respondent No.7 was constructing without leaving the mandatory side spaces

vacant. The petitioner submits that the Pradhan of Amdanga Gram Panchayat had directed the parties to appear before the authority upon receipt of a complaint lodged by the petitioner.

It is alleged that the construction work had been stopped for a while. Thereafter, the respondent No.7 once again started raising a construction without leaving adequate side spaces as per the rules.

The writ petition is disposed of with a direction upon the Amdanga Gram Panchayat, District-North 24-Parganas to consider the representation of the petitioner dated September 5, 2022, which is annexure P/1 at page 13 of the writ petition and dispose of the same in accordance with law.

The following procedure shall be adopted by the permission granting authority, while disposing of the matter:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent No.7, with 48 hours advance notice to the petitioner and the respondent No.7.

- 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 No.7.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without conversion of the land as also without permission and had been 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 Court has not gone into the merits of the claim of the petitioner and the issues raised shall be decided by the competent authority of the Amdanga Gram Panchayat, District-North 24-Parganas.

The question of title, possession, encroachment, etc. shall not be gone into.

A copy of the writ petition along with a server copy of this order be served upon the Pradhan, Amdanga 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.)