

Item No. 9
24.01.2023
Court. No. 19
GB

W.P.A. 606 of 2023

Shambhunath Jana
VS
The State of West Bengal & Ors.

Sk. Tosmil Ali

...for the Petitioner.

*Mr. Rabindra Narayan Dutta,
Mr. Suprabhat Bhattacharya*

...for the State.

Affidavit-of-service filed in Court today, be kept with the record.

Despite service none appears on behalf of the respondent nos.5 to 7. This Court is not inclined to pass any mandatory directions. The matter is sent to the competent authority for determination of the allegation of unauthorized construction. Thus, the writ petition is taken up and disposed of in their absence.

The petitioner alleges that the respondent nos.6 and 7 have started raising an unauthorized construction on L.R. Plot No.739 in Mouza-Uttarbhatora, without conversion of the land and without any permission from the concerned authority. Reference has been made to Section 23 of the West Bengal Panchayat Act, 1973 and Rule 26 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004.

The writ petition is disposed of with a direction upon the Bhatora gram panchayat to dispose of the representation of the petitioner which is Annexure-P/2 at Page 14 of the writ petition.

While doing so, the following procedure shall be adopted:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.6 and 7. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.6 and 7 and all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the 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/or without conversion and was continuing, the authorities may take such interim measures by stopping such construction.
- c) A 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. The question of title, possession and boundary dispute etc. shall not be decided by the panchayat authorities. The questions to be decided by the panchayat authorities would be whether the construction has been made without any permission and/or without conversion and/or in violation of the building rules.
- e) A hearing shall be given to the petitioner and the respondent nos.6 and 7. 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 Section 23(5) of the West Bengal Panchayat Act, 1973.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently.

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

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)