

S/L 16
30.1.2023
Court. No. 19
sn

W.P.A.704 of 2023

Nripati Halder
Vs.
The State of West Bengal & Ors.

Mr. Sukdeb Sarkar

...for the Petitioner.

Mr. Debabrata Roy

Mr. Arun Kr.Halder

Ms.Sarbani Mukhopadhyay

Mr. Soumik Mandal

Mr. S. Sarkar

..for the respdt.8

Md. Galib

Ms.Subhra Nag

.for the State

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

The petitioner alleges that the respondent no.8 has raised a construction on LR Plot nos. 401 and 218 moza Shibpur without any permission from the Dhanurhat Gram Panchayat. Such intimation was given to the petitioner by the executive assistant of the Dhanurhat Gram Panchayat on August 31, 2022 as the answer of the petitioner's query under the Right to Information Act.

Mr. Roy, learned advocate for the respondent no. 8 denies the allegation of the petitioner and submits that the writ petition is the result of a private dispute between the co-sharers. Mr. Roy further submits that the petitioner had also constructed his dwelling house without any permission.

This Court is of the view that the permission granting authority must adjudicate the allegations made by both the parties in respect of each other's construction.

This writ petition is disposed of with a direction upon the Dhanurhat Gram Panchayat to treat the writ petition as a representation of the petitioner and dispose of the same in accordance with law. The allegation of the respondent no.8 that the petitioner had also constructed without permission, shall be determined. Whether the constructions of the parties would require permission under the West Bengal Panchayat Act, 1973 or whether such constructions were exempted, must be decided.

While doing so, the following procedure shall be adopted by the permission granting authority.

- a) An inspection of both residential units of the petitioner and the respondent no.8 shall be held. Such inspections shall be held in the presence of the petitioner and the respondent no.8. An advance notice of the inspection shall be served upon the petitioner and the respondent no.8 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 had been continuing, the authorities may take such interim measures by stopping such construction.
- c) The reports of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.

- d) Such reports shall be handed over to the parties.
- e) A consolidated hearing shall be given to the petitioner and the respondent no.8. 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) Reasoned orders shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during the inspections, both the proceedings shall be reached to their 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, upon hearing the parties. The question of right, title and possession of the parties shall not be decided.

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

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

The learned advocate on record for the petitioner is directed to serve a copy of the writ petition along with a server copy of this order upon the Dhanurhat Gram Panchayat.

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

(Shampa Sarkar, J.)