

Item No. 14
24.01.2023
Court. No. 19
GB

W.P.A. 731 of 2023

Gunadhar Mondal
VS
The State of West Bengal & Ors.

Mr. Udaynarayan Betal

...for the Petitioner.

*Mr. Malay Singh,
Ms. Neelam Singh*

...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.4, 5 and 7. As this Court is not inclined to pass any mandatory directions but is relegating the matter before the competent authority to decide the issues, the writ petition is taken up and disposed of in their absence.

The petitioner alleges that the respondent no. 7 has started raising and unauthorized construction on L.R. Plot No.1907 pertaining to L.R. Khatian No.498 of Mouza-Nischintapur without any permission and without obtaining conversion from the respective authorities. The allegation is that the plot continues to be classified as a 'Doba'.

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/3 at Page 19 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 no. 7. An advance notice of the inspection shall be served upon the petitioner and the respondent no.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 no.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.)