

07.02.2023
Court No. 19
Item No.13
CP

WPA No. 919 of 2023

Sri Jyoti Mahato & anr.
Vs.
The State of West Bengal & Ors.

Mr. Falguni Bandyopadhyay
Ms. Riya Ballav

....for the petitioners.

Ms. Sipra Majumdar
Ms. S. Roy

....for the State.

Mr. Snehatosh Majumder
Mr. Sattwik Majumder
Ms. Urmi Sengupta

...for the respondent nos. 14 to 17.

Mr. Manas Kumar Das
Mrs. Sulekha Mitra
Mr. A. K. Thokdar

...for the respondent nos. 8, 11, 13.

The petitioners are granted liberty to approach the Sonaijhuri Gram Panchayat with their allegation of unauthorized construction by the respondent nos. 8 to 17.

The petitioners' claim with regard to the right, title and interest over the said land pertaining to C.S. Plot Nos. 1857, 1858, 1859, 1860, 1868, 1869, 1870, 1920, 1921, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1987, 2007, 2016, 2045, 2046, 2389, 2390 of Mouza – Manguria, shall not be decided by the authority.

The issues which are subject matters of the civil suit cannot be gone into by the authority. The proceeding shall be restricted to the allegation that the respondent nos. 8 to 17 had been constructing without any permission from the gram panchayat.

If such representation is filed by the petitioner, the same shall be disposed of in accordance with law. If the panchayat authorities come to the conclusion upon measuring the plinth area of the construction involved that the zilla parishad would be appropriate authority to grant sanction, the matter shall be referred to the said zilla parishad. In either case, whether the permission granting authority would be the gram panchayat or the zilla parishad, the authority shall dispose of the representation of the petitioner by adhering to the following procedure:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos. 8 to 17. An advance notice of inspection shall be served upon the petitioners and the respondent nos. 8 to 17 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 was continuing, the authorities may take such interim measures by stopping such construction.
- c) The 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.
- e) A hearing shall be given to the petitioners and the respondent nos. 8 to 17. 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 accordance with law.

The court has not gone into the merits of the claims.

The entire exercise shall be completed within a period of four months from the date of receipt of the representation.

The decision shall be limited to the issue of unauthorized construction, i.e., whether the construction has been raised without any permission or in deviation of the permission/sanction. The disputes with regard to title, possession and boundary etc., shall not be decided.

A copy of the writ petition along with a server copy of this order be served upon the concerned gram panchayat for necessary compliance 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.)