

Item No.34
20.02.2023
Court. No. 19
GB

WPA 963 of 2023

Animesh Biswas & Ors.
Vs
The State of West Bengal & Ors.

Mr. Sandipan Maity

...for the Petitioners.

*Mr. Wasim Ahmed,
Sk. Md. Masud*

...for the State.

*Mr. Sakya Maity,
Mr. Ranjan Kumar Mahapatra*

...for the Respondent No.7.

The petitioners allege that the respondent no.7 has raised an unauthorized construction on L.R. Plot No.2031 of Mouza-Palashipara, without any permission from the authorities.

The learned advocate for the State respondents has handed over some pictures in order to establish that the construction was made 40 years ago and no additional or new construction had been made. Photographs have been filed, which are taken on record. A certificate issued by a member of the gram panchayat has also been relied upon in this regard.

The State respondents have submitted a paragraph wise comments prepared by the Pradhan of Palashipara gram panchayat. It appear that the respondent no.7 had been asked by the Pradhan not to raise any construction when the representation of the petitioners was received. The

authorities have also intimated that steps will be taken in accordance with law.

The writ petition is disposed of with a direction upon the Palashipara gram panchayat to dispose of the representation of the petitioners which is Annexure-P/5 at Page-66 of the writ petition in accordance with law.

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 petitioners and the respondent No.7. An advance notice of the inspection shall be served upon the petitioners and the respondent no.7 and on 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 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 had been made without any permission and/or in violation of the building rules. The age of the construction shall also be determined in order to ascertain whether the same was constructed at the time when the panchayat law was not in force.

- e) A hearing shall be given to the petitioners and the respondent no.7. The parties must also be allowed to furnish their written objection/version to the respective reports 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 petitioners 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.)