

Item No. 15
07.02.2023
Court. No. 19
GB

W.P.A. 1211 of 2023

Smt. Rabiya Bibi
VS
The State of West Bengal & Ors.

*Mr. Bibek Chatterjee,
Mr. Tanmoy Chakraborty,
Mr. Sandipan Maity,
Ms. Paramita Sahu,
Mr. Sourav Dutta*

...for the Petitioner.

*Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata*

...for the State.

*Mr. D. Basu,
Ms. Sushmita Ghosh,
Mr. Parashar Baidya*

...for the Respondent Nos.6 to 12.

The petitioner alleges that the respondent nos.6 to 12 have raised an unauthorized construction on an undivided plot of land situated at RS and LR Dag No.1889 of Mouza- Deara, without any permission from Rohanda gram panchayat.

The learned advocate for the respondent nos.6 to 12 has handed over a plan sanctioned by the Rohanda gram panchayat sometime in 2010. A three storeyed building had been approved in 2010 under the seal of the said gram panchayat. According to the said respondents, the construction has been made strictly in accordance with the plan.

The learned advocate for the petitioner denies such contention and submits that several houses have been

constructed on the undivided plot, without any permission from the gram panchayat.

It appears that Title Suit No.484 of 2000 is pending before the learned Civil Judge (Senior Division), 1st Court at Barasat, between the petitioner and Imam Ali and others.

These disputed questions of facts cannot be gone into by the Court. The petitioner will approach the gram panchayat with her grievance. On receipt of such representation the panchayat authorities shall make an enquiry to ascertain whether any plan had been sanctioned in respect of a construction on RS and LR Dag No.1889 or not and whether the constructions had been made in accordance with the plan. If it is found that constructions exist beyond the sanction granted by the Rohanda gram panchayat on RS Dag No.1889 corresponding to LR Khatian Nos.2409 and 2410 covering an area about 2842 sq. ft. as delineated in the sanction plan, the authority shall be at liberty to act and proceed in accordance with law in respect of the constructions beyond sanction. The grievance of the petitioner shall be disposed of 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 petitioner and the respondent Nos.6 to 12. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.6 to 12 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. 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 in violation of the building rules.
- e) A hearing shall be given to the petitioner and the respondent nos.6 to 12. 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.

With regard to the allegation of construction in violation of the order of the civil court, the petitioner is at liberty to approach the civil court in accordance with law.

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.)