

S/L 16
7.2.2023
Court. No. 19
sn

W.P.A. 1531 of 2023

Forida Khan
Vs.
The Pradhan, Bankra-II Gram Panchayat & Ors.

Mr. Tarique Quasimuddin
Ms. Sanchita Chaudhuri

...for the Petitioner.

Mr. Sanjib Seth

..for the respdts. 3

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

This writ petition is disposed of granting liberty to the petitioner to approach the Howrah Zilla Parishad with the allegation of unauthorized construction allegedly made by the respondent nos. 3&4 on Dag No. 1424 of mouza Unsani.

It is the specific contention of Mr. Seth, learned advocate for the respondent no.3 that the construction is in a notified area under the Kolkata Metropolitan Development Authority and as such the Howrah Zilla Parishad would be the appropriate authority to consider the allegations of the petitioner. It has been specifically stated by Mr. Seth that only a boundary wall had been raised which did not require any permission from the Howrah Zilla Parishad.

The petitioner's complaint is two fold:-

- 1) That the construction is on a "Sali" land and such construction had been made without any conversion.
- 2) The construction was without any permission.

If the petitioner approaches the zilla parishad, the zilla parishad shall entertain such complaint 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.3&4. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.3&4 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 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 questions of right, title, possession and boundary disputes, shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioner and the respondent nos.3&4. 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 of the petitioner and the issues involved shall be decided independently, upon hearing the parties.

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

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 Howrah Zilla Parishad.

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.)