

30.01.2023
Court No. 19
Item No.30
CP

W.P.A. No. 1564 of 2023
Subhas Chandra Maiti @ Subhas Maiti & anr.
Vs.
The State of West Bengal & Ors.

Mr. Tanmay Basu
Mr. Chandan Samanta
...for the petitioners.

Mr. Lalit Mohan Mahata
Mr. P. B. Mahata
....for the State.

Mr. Uday Sankar Bhattacharya
Mr. Ashim Kumar Ghosh
....for the respondent no. 7.

The writ petition is disposed of granting liberty to the petitioner to file a comprehensive representation before the Jyoteghanashyam Gram Panchayat with proper pleadings and specifications in respect of the allegations made in respect of the construction of the respondent no. 7.

The petitioner contends that the respondent no. 7 had made preparations to raise a construction on L.R. Plot No. 6606 of Mouza – Joteghanashyam without any permission from the panchayat authorities and without conversion of the said land from 'Jal' to 'Bastu'.

Learned advocate for the respondent no. 7 denies the allegations and submits that the writ petition is

devoid of any merits and the petitioner's contentions are based on mere apprehension. He further submits that the dispute is civil in nature.

The question with regard to right, title and possession are matters to be decided by a civil court. However, the issue as to whether the construction had been raised without permission from the appropriate gram panchayat/permission granting authority and without obtaining proper conversion certificate, must be decided by the concerned gram panchayat.

Under such circumstances, if the petitioner files a proper representation, the same shall be disposed of in accordance with law by the appropriate gram panchayat/permission granting authority. 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 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 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.

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 said representation.

The disputes with regard to title, possession and boundary etc., shall not be decided by the panchayat authorities.

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.)