

Item No.15
27.02.2023
Court. No. 19
GB

WPA 2015 of 2023

Adhir Kumar Pal & Ors.
Vs
The State of West Bengal & Ors.

*Mr. Tulshi Das Roy,
Mr. Tirthankar Roy,
Ms. A. Mondal*

...for the Petitioners.

*Mr. Susanta Paul,
Ms. Ananya Neogi*

...for the State.

*Mr. Krishnendu Bhattacharya,
Mr. Avinaba Patra,
Ms. Shalini Baigari,
Ms. Souraja De*

...for the Respondent Nos.6 & 7.

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

The petitioner as also the respondent nos.6 and 7 are directed to approach the Pradhan, Karimpur-I Gram Panchayat with their respective complaints against each others construction. On the basis of such complaints of both the parties, the concerned gram panchayat shall act and proceed in accordance with law and decide the allegations.

The respondent nos.6 and 7 have submitted a plan along with the permission given by the concerned gram panchayat. It appears that a G+1 structure was permitted. The said respondents contend that their grievance with regard to the petitioners' construction had not been disposed of.

Both parties allege the constructions have been made without following the rules.

The writ petition is disposed of with a direction upon the concerned gram panchayat to adjudicate the issue involved, in accordance with law.

While doing so, the following procedure shall be adopted:-

- a) Inspections shall be conducted in respect of both the constructions made by the petitioner and the respondent nos.6 and 7. Such inspection shall be held in the presence of the petitioner and the respondent nos.6 and 7. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.6 and 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 constructions were without permission and in deviation of the building rules and were continuing, the authorities may take such interim measures by stopping such construction.
 - c) Reports of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized constructions, if any.
 - d) Such reports 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.

- e) A hearing shall be given to the petitioner and the respondent nos.6 and 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) Reasoned orders shall be passed and communicated to the parties in respect of the respective constructions. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to their logical conclusions 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.)