

M/L 30
08.02.2023
Court. No. 19
GB

W.P.A. 2032 of 2023

Panchanan Mandal
VS
The State of West Bengal & Ors.

Mrs. Pampa Dey (Dhabal)

...for the Petitioner.

*Mr. Jahar Lal De,
Mr. Rudranil De*

...for the State.

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

Despite service, none appears on behalf of the respondent nos.6, 7, 9 and 10. As this Court is not inclined to pass any mandatory directions but is relegating the matter before the competent authority to decide the issues, the writ petition is taken up and disposed of in their absence.

The petitioner alleges that the respondent nos.9 and 10 have raised an unauthorized construction on Plot No.264 pertaining to Khatian No.123 of Mouza-Mollarchak without any permission from the Kulpi Kamarchak gram panchayat.

Without going into the merits of the claims and counter-claims, the writ petition is disposed of with a direction upon the Kulpi Kamarchak gram panchayat to dispose of the representation of the petitioner which is Annexure-P/7 at Page 47 of the writ petition.

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.9 and 10. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.9 and 10 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/or 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 has been made without any permission and/or without conversion and/or in violation of the building rules.
- e) A hearing shall be given to the petitioner and the respondent nos.9 and 10. 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.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

The petitioner is directed to serve a copy of the writ petition along with a server copy of this order upon the concerned authority.

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.)