

13.02.2023
Court No. 19
Item No.20
CP

WPA No. 2069 of 2023

Kalimuddin Molla
Vs.
The State of West Bengal & ors.

Mr. Baidurya Ghosal
Ms. A. Dutta

...for the petitioner.

Mr. Rajarshi Basu

....for the State.

Mr. Mahaboob Ahmed

...for the respondent nos. 6 to 8.

The petitioner alleges that the respondent nos. 6 to 8 had raised an unauthorized construction in front of L.R. Plot No. 1020 of Mouza – Belaipara, corresponding to L.R. Khatian No. 1229.

Learned advocate for the respondent nos. 6 to 8 contends that the petitioner has constructed a concrete structure with tin shed without any permission. Allegation of unauthorized construction in front of L.R. Plot No. 1020 is vehemently denied.

Both the parties have allegations against each other, with regard to raising unauthorized constructions.

It appears that the Pradhan, Bannyeswar Gram Panchayat by a notice dated February 8, 2023 had called the parties for a hearing.

Thus, the writ petition is disposed of with a direction upon the concerned gram panchayat to

treat the writ petition as a representation and dispose of the same in accordance with law. The allegation of the respondent nos. 6 to 8 that the construction of the petitioner is also unauthorized shall also be decided. While doing so, the following procedure shall be adopted:

- a) Inspections of the premises shall be conducted. Such inspections shall be held in the presence of the petitioner and the respondent nos. 6 to 8. An advance notice of the inspection shall be served upon the petitioner and the respondent nos. 6 to 8 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 inspections that there may be reasons to believe that the constructions were either without permission and were continuing, the authorities may take interim measures by stopping such construction.
- c) The reports of such inspections shall be prepared along with sketch maps, indicating the extent and nature of unauthorized constructions, if any, by each of the parties.

- d) Such reports shall be handed over to the parties.
- e) A hearing shall be given to the petitioner and the respondent nos. 6 to 8. The parties must also be allowed to furnish their written objections/versions to the said reports and adduce oral and documentary evidence in support of their contentions before the competent authority. All points raised by either party with regard to the respective constructions, will be decided.
- f) Reasoned orders 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 their logical conclusion in terms of Section 23(5) of the West Bengal Panchayat Act, in respect of both the constructions.

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 communication of this order.

The issues that shall be decided would be whether the alleged constructions were without any sanction and/or permission or in deviation from any

sanction or in violation of the building rules. The other issues with regard to right, title and interest shall not be gone into.

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.

With the disposal of the writ petition the connection application, if any, is also 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.)