

S/L 23
22.2.2023
Court. No. 19
sn

W.P.A. 2102 of 2023

Ashok Kumar Das
VS
The State of West Bengal & Ors.

Mr. Arkoday Mukherjee

...for the Petitioner.

Ms. Sima Adhikari

Ms. Kakali Naskar

...for the State.

Mr. Sunny Nandy

Mr. Subha Pathak

..for the respdt. 14

Mr. Shekar Pal

Mr. Krishna Prasad Majumdar

..for the respdts.10,11,20-26

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

The petitioner alleges that the respondent nos. 10 to
26 had raised an unauthorized construction on L.R. Dag
no.1281 of mouza Ghuni.

Reliance has been placed on an answer to the query of
the petitioner as to whether any building plan had been
sanctioned in respect of LR.Dag no.1281, J.L.No.23 of mouza
Ghuni.

The Pradhan of Jyangra Hatiara No. 2 Gram
Panchayat, by a letter dated December 27, 2022 intimated
the learned advocate for the petitioner that no plan had been
sanctioned in respect of the aforementioned plot.

Learned advocate for the respondent no.14 denies the
allegation against his client and submits that the respondent
no.14 is neither interested in the said plot of land nor had he
constructed on the same. The other respondents have

submitted that there was a pre-existing construction, prior to the time when the land was purchased by them and permission for construction had been granted by the then gram panchayat some time in 1982. It is further submitted that some of the private respondents in the writ petition were residing on the premises, since long.

The police enquiry reveals that the petitioner purchased the land from the deceased father of the persons residing in the premises and a title suit is pending between the parties. The Writ Court is not in a position to make an enquiry into the factual disputes which are alleged.

The only issue to be decided is whether any construction has been raised on the said plot of land, without any permission or without any plan.

The Jyangra Hatiara No. 2 Gram Panchayat shall treat the writ petition as a representation and dispose of the same in accordance with law.

The issues to be decided by the gram panchayat authorities are as follows :-

- A) Whether any new construction had been raised on the aforementioned plot.
- B) Whether any permission had been granted for the pre-existing construction by the then Gram Panchayat some time in 1982.
- C) Whether the entire construction was devoid of any permission or sanction.

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.10-26. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.10-26 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) 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 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.10-26. 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, 1973.

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 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.)