

S/L 19
8.2.2023
Court. No. 19
sn

W.P.A. 2113 of 2023

Kartick Bugh & Ors.
VS
The State of West Bengal & Ors.

Mr. Sayantan Rakshit

...for the Petitioners.

Ms. Sutapa Sanyal

Mr. Anand Farmania

...for the State.

Mr. Vivekananda Bose

Mr. Rahul Kr. Gupta

Mr.R. Pal

..for the respdts.6-10

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

The petitioners allege that the respondent nos. 6 to 10
had raised a construction on dag no. 301 of mouza Polba
Dadpur, without any permission or sanction and without
conversion of the land to 'Bastu'. It is submitted that a part
of the construction was made of bricks and the other part
was temporary in nature.

Under the West Bengal Panchayat Act,
1973(hereinafter referred to as the said Act) and the rules
framed thereunder, permission to construct can only be
granted if the land had been converted to 'Bastu'. Such
construction should be sanctioned in terms of Section 23 of
the said Act. Temporary structures not made of bricks are
exempted from the provisions of Section 23 of the said Act.

Learned advocate for the respondent nos. 6 to 10
denies such allegation. Thus, disputed questions of facts
have arisen.

This writ petition is disposed of with a direction upon the Makalpur Gram Panchayat to dispose of the representation of the petitioners, which is at page 30 of the writ petition.

It appears that the petitioners also filed a demand of justice before the concerned panchayat authorities.

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 petitioners and the respondent nos. 6 to 10. An advance notice of the inspection shall be served upon the petitioner and the respondent nos. 6 to 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 had been 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. The questions 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.6 to 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 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.

The learned advocate on record for the petitioners is directed to serve a copy of the writ petition along with a server copy of this order upon the Makalpur Gram Panchayat.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)