

S/L 33
8.2.2023
Court. No. 19
sn

W.P.A. 2287 of 2023

Lakshmikanta Naskar & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Shiladitya Barma
Ms. Arpita Das

...for the Petitioners.

Ms. Piyali Sengupta
Ms. Rupsha Chakraborty

..for the State

Ms. Mekhla Sinha

..for the zilla parishad

Mr. Baidurya Ghosal
Ms. Aatreyee Dutta

..for the respondent no.10

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

The police report is taken on record.

It appears that there are cases and counter cases by
and between the parties. The investigations were done by the
police authorities and charge-sheets have been filed. These
issues are not relevant for determination of the question of
unauthorized construction.

The petitioners allege that the respondent nos. 9 to 11,
who are co-sharers along with the petitioners, had raised
unauthorized construction on plot no.290 corresponding to
Khatian no.,124 of mouza Debipara without any permission
either from the panchayat authorities or from the zilla
parishad.

Mr.Ghosal, learned advocate for the respondent no.10
submits that a Title Execution Case is pending between the

parties, before the learned Civil Judge, Senior Division at Howrah.

Learned advocate for the zilla parishad submits that as the area where the construction had been raised falls within the jurisdiction of the Howrah Zilla Parishad, the Howrah Zilla Parishad would be the appropriate permission granting authority in this case.

This writ petition is disposed of with a direction upon the competent authority of the Howrah Zilla Parishad to treat the writ petition as a representation of the petitioners and decide the issue of unauthorized construction in accordance with law.

The only issue that shall be decided would be whether the respondent nos.9 to 11 had raised any unauthorized construction without permission either from the zilla parishad or from any other authority as required under the law.

If it is found that the construction had been raised without any permission or in violation of the building rules, necessary steps shall be taken in accordance with law.

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.9 to 11. An advance notice of inspection shall be served upon the petitioners and the respondent nos. 9 to 11 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 petitioners and the respondent nos.9 to 11. 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, upon hearing the parties.

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

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 Howrah Zilla Parishad.

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.)