

S/L 7
28.2.2023
Court. No. 19
sn

W.P.A. 2507 of 2023

Soumya Karmakar
VS
The State of West Bengal & Ors.

Mr. Bapin Baidya
Mr. Ratnadipta Karmakar
Mr. M.P. Chakraborty

...for the Petitioner.

Md.Galib
Mr. Gourav Das

...for the State.

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

The petitioner alleges that the respondent no. 10 had raised an unauthorized construction on plot no. 1429/1795 of mouza Kanyanagar without conversion of the land from 'Danga' to 'Bastu'. Postal report issued by the postal department indicates that five attempts were made to serve the postal article upon the respondent no.10, but the same was not claimed. The dates have been mentioned on the envelope. The same is taken on record.

As this Court is not passing any mandatory directions, adverse to the interest of the respondent no.10, the matter is taken up in the absence of the respondent No.10.

It appears that the respondent no.10 has started a construction on the alleged plot of land and had also submitted before the police authorities that he had a sanction to construct. However, the sanction that was allegedly granted by the Paschim Bishnupur Gram

Panchayat was not produced before the police authorities. The police report is taken on record.

The petitioner was informed by the Executive Assistant of Paschim Bishnupur Gram Panchayat that there was no record in the gram panchayat indicating grant of permission to one Bijoy Krishna Pramanick, permitting construction on Dag No.1429/1795. Further reliance has also been placed in the communication of the Block Land & Land Reforms Officer, South 24 Parganas by which the petitioner was informed that no conversion of the land had been made.

These disputed questions of facts cannot be gone into by the Writ Court. The petitioner must approach the permission granting authority in accordance with law and if such application is made the same shall be disposed of by adopting the following procedures.

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no.10. An advance notice of the inspection shall be served upon the petitioner and the respondent no.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 authority shall also enquire whether any conversion had been made before such construction was started. The rules do not permit construction on any land other than Bastu.
- d) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- e) 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.
- f) A hearing shall be given to the petitioner and the respondent no.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.
- g) 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.)