

13.3.2023
Ct.19/sl.17
sn

W.P.A. 2861 of 2023

Sukhi Murmu @ Khepi Santal

Vs.

The State of West Bengal & Ors.

Ms. Shikha P. Chowdhury

Mr. Badraddoza Mullick

..for the petitioner

Ms.Soma Chowdhury(Bandhu)

..for the respondent no.8

The respondent no.8 is represented by the State Legal Services Authority. Learned advocate is present in Court.

The allegation is that the respondent no.8, who is the beneficiary under the PMAY(G) scheme had encroached into the land of the petitioner while making the construction under the said scheme.

Learned advocate for the respondent no.8 submits that the issue of encroachment cannot be decided by the Writ Court.

Although the writ petitioner has approached this Court for a direction upon the Gurup Gram Panchayat to take necessary steps on the allegation of encroachment and unauthorized construction, this Court is of the view that any construction under a housing scheme for the benefit of the poor, is beyond the scope of Section 23 of the West Bengal Panchayat Act,1973. Rule 19 of the West Bengal Panchayat

(Gram Panchayat Administration) Rules, 2004 specifically make such exemption.

However, the concerned Block Development Officer, shall treat the writ petition as a representation of the petitioner and enquire as to whether the construction by the respondent no.8 had been done in terms of any permission under PMAY(G) scheme and if so, in accordance with the lay out plan or not.

Any deviation from the model drawing/sketch plan and any construction beyond the scope of the scheme, shall be dealt with in accordance with law. Before a decision is taken, an inspection shall be made in the presence of all the parties and/or their representatives. A report shall be prepared and supplied to the parties. Thereafter, a hearing shall be given and if any deviation from the permission is detected and the construction is found to have been made on a plot other than LR plot no.198 of mouza Boro Mallick Pur and in contravention to the lay out plan, steps shall be taken in accordance with law. In case the plots involved in the dispute cannot either be demarcated or identified, necessary directions shall be passed relegating the parties to a civil suit for declaration of right, title and interest.

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

This writ petition is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)