

21.03.2023
Court No. 19
Item 19 (ML)
CP

WPA No. 3109 of 2023

Bokul Subhas Maity
Vs.
The State of West Bengal & Ors.

Mr. Indrajit Roy Chowdhury

....for the petitioner.

Mrs. Sipra Majumdar
Ms. Prativa Ghatak

...for the State.

Despite service, none appears on behalf of the respondent nos. 2, 3 and 6.

As this court is not inclined to pass any mandatory directions as prayed for, but deems it fit to relegate the matter to the permission granting authority, this writ petition is taken up in their absence.

Although the petitioner claims to be the owner of the R.S. Dag No. 792/2249 of Mouza – Chouddachuli, such issue cannot be decided by the panchayat authorities. The allegation is that the respondent no. 6 had started raising a construction on the said land without obtaining any permission from the Haludbari Gram Panchayat. An objection to that effect has already been filed before the said gram panchayat which is Annexure P-3, at page 44 to 46 of

the writ petition. Further allegation is that the land on which such construction has been made is a water body and no conversion of the same to Bastu, had been permitted.

The issue of right, title and interest cannot be gone into by the panchayat authorities. The panchayat authorities are only entitled to ensure that no construction should take place in any area within its jurisdiction, without proper conversion and without permission.

Without going into the merits of the allegations of the petitioner the writ petition is disposed of with a direction upon the Haludbari Gram Panchayat to decide the issue of unauthorized construction in terms of the representation of the petitioner which is Annexure P-3, at page 44 to 46 of the writ petition.

While doing so, the authorities will follow the procedure stated hereinbelow:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no. 6. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 6 and on 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 was 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.
- e) A hearing shall be given to the petitioner and the respondent no. 6 and all other interested parties. 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.

The court has not gone into the merits of the claims.

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

A copy of the writ petition along with a server copy of this order be served upon the concerned gram panchayat for necessary compliance 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.)