

Item No.2
29.03.2023
Court. No. 19
GB

WPA 3367 of 2023

Smt. Chhaya Mondal @ Chhaya Biswas
Vs
The State of West Bengal & Ors.

*Mr. Achyut Basu,
Ms. Punam Basu,
Mr. Srikumar Chakraborty,
Ms. Pritha Biswas*

...for the Petitioner.

*Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata*

...for the State.

*Ms. Monika Kalra,
Mr. Somnath Habisyasi,
Mr. Farhan Gaffar,
Mr. Yashashwi Sundariya,
Ms. Prerna Vishwas*

...for the Respondent No.5.

Mr. Debasish Kar

...for the Respondent No.7.

With the intervention of the police authorities, the Pradhan of Kampa-Chakla Gram Panchayat is before the Court and is represented by learned advocate.

The petitioner alleges unauthorized construction on R.S. and L.R. Plot No.16 corresponding to L.R. Khatian No.2837 of Mouza-Kampa. According to the petitioner, the construction of the respondent no.7 is illegal and unauthorized.

The learned advocate for the respondent no.7 submits that the construction had been raised on the basis of a plan sanctioned by the Kampa-Chakla Gram Panchayat.

The learned advocate for the respondent no.5 submits a report which indicates that the construction is in violation of the plan.

However, these are only, prima facie, findings and the Court deems it fit to relegate the entire matter before the permission granting authority for necessary steps. While disposing of the entire issue, the concerned gram panchayat will decide whether the construction is in accordance with the plan and/or in violation thereof and also whether the building rules with regard to minimum side space and front space had been followed or not. The procedure to be adopted by authority, is stated hereinbelow:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no.7. An advance notice of the inspection shall be served upon the petitioner and the respondent no.7 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 in deviation of the building rules 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. The question of title, possession and boundary dispute

etc. shall not be decided by the panchayat authorities.

- e) A hearing shall be given to the petitioner and the respondent no.7. The parties must also be allowed to furnish their written objection/version to the 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 petitioners and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of four months from the 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.)