

ML 83
23.03.2023
Court. No. 19
GB

WPA 4247 of 2023

Sudarshan Haldar
Vs
The State of West Bengal & Ors.

Mr. Lalratan Mandal

...for the Petitioner.

*Mr. Raja Saha,
Ms. Tanusri Chanda*

...for the State.

*Mr. S. Gayen,
Mr. Sandipan Maity*

...for the Respondent No.7.

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

There are allegations and counter-allegations made by the petitioner and the respondent no.7 against each others construction. The dispute is with regard to the constructions raised by the parties. Both the parties allege that the constructions have been made without leaving mandatory front and side spaces. Both parties submit that they have permission to construct. Reliance has been placed on plans which had been submitted before the concerned authority.

The writ petition is disposed of with a direction upon the Dakshin Barasat Gram Panchayat enquire into the matter and to take a decision as to whether both the parties have made their constructions strictly in accordance with a sanctioned plan and the mandatory spaces between the two constructions have been maintained by the parties or not. For the disposal of the above issue the following procedure shall be followed:-

- 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/or 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. The issue of unauthorized construction shall be decided. The other matters relating to the civil court shall not be gone into.
- 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. This decision shall not have any impact on the civil suit.

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.)