

13.03.2023
Sl. No.9(DL)
srm

W.P.A. No. 4334 of 2023
Narayan Chandra Manna & Ors.
Versus
The State of West Bengal & Ors.

Mr. Salil Kumar Maity
....for the Petitioners.

Mr. Santanu Mitra,
Mr. Anandamani Ghosh
...for the State-respondents.

Mr. K.M. Hossain
...for the Respondent Nos.8 to 16.

Affidavit-of-service is taken on record.

The petitioners allege that a temple had been constructed on Plot No.2338 situated at mouza Rajarampur, J.L. No.130 by the respondent Nos.8 to 16. Further allegation is that the construction of the temple was without any permission and without conversion of the land from '*jal*' to '*bastu*'.

Learned Advocate for the respondent Nos.8 to 16 has produced certain documents which indicate that a resolution had been adopted by the members of a club to the effect that the electricity connection to the "Bhim Mandir" situated on government land should be taken in the name of the petitioners, but the club would be

responsible for paying the bills. Other resolutions with regard to the method by which the *pujas* were to be performed were also adopted and the petitioners were part of the said resolutions. Such resolutions were adopted on February 5, 2022. Some of the documents indicate that all along the petitioners were participants in the meetings which were held for establishment and construction of the alleged temple. The petitioners also donated funds for the said purpose.

Mr. Mitra, learned Advocate for the State-respondents submits that two complaints had been filed by the petitioners. On the basis of which, FIRs have been registered.

The specific contention of the petitioners is that the temple had been constructed illegally on the private land of the petitioners, instead of government land. That the resolutions which had been relied upon by the respondent Nos.8 to 16 were with regard to establishment of a temple on government land. It also appears that the panchayat authorities had given a 'no objection' with regard to the electricity connection which the parties proposed to take for the temple.

The issues which have arisen are as follows:

- (a) Whether the temple was constructed without any conversion of the land from '*jal*' to '*bastu*' and on the agricultural land exclusively belonging to the petitioners.
- (b) Whether the temple had been constructed at the instance of the petitioners and other members of the club on government land, but without conversion of the land and without permission from the panchayat.
- (c) Whether permission had been granted by the concerned department of the government in whose name the land was recorded, for construction of the temple.

Under such circumstances, a through enquiry in the matter is required. The Sub-Divisional Officer, Haldia, is directed to dispose of the controversy which has been raised, in accordance with law. The land records shall be consulted and the assistance of the concerned Block Land and Land Reforms Officer shall also be taken for inspection and demarcation of land on which the construction of the temple had been made. Such demarcation/inspection shall be made in the presence of all interested parties. Report to that effect shall be prepared and submitted to the parties.

The parties will be called for a hearing and allowed to make their submissions. After hearing the parties, a reasoned order shall be passed and communicated to all.

If the Sub-Divisional Officer, Haldia, finds that the construction of the temple is on a national highway or on a government land, the matter shall be referred to the appropriate authority under the applicable law for necessary steps. If it is found that the construction is on a private land and without any permission from the permission granting authority, the matter shall be referred to the appropriate permission granting authority in accordance with law, for necessary steps. If it is found that no conversion had been permitted as per the West Bengal Land Reforms Act, necessary steps shall be taken.

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

This Court has not gone into the correctness of the allegations and the issues which have been framed hereinabove, shall be disposed of in accordance with law. If violations of the relevant statutes are found, the competent authority/authorities shall proceed accordingly in respect of the said construction.

This order shall not be treated as a declaration of the Court with regard to the right, title and interest of the petitioners in respect of the land on which the construction had been allegedly made. This order is being passed for determination of the issue as to whether the construction is actually on a government land or on a private land and had been raised with or without permission, conversion and sanction.

A copy of the writ petition along with a server copy of this order be served upon the Sub-Divisional Officer, Haldia.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)