

05.01.2023
Sl. No.836(ML)
srm

W.P.A. No. 4454 of 2022

Dilip Kumar Sautya

Vs.

The State of West Bengal & Ors.

Mr. Shaunak Ghosh,
Mr. Anindya Sundar Das,
Ms. Avipsa Sarkar

....for the Petitioner.

Affidavit-of-service is taken on record.

It appears that the respondent Nos.4 to 6 have refused service. The postal articles which have returned to the petitioner are annexed to the affidavit-of-service. As such the matter is taken up in their absence.

The petitioner alleges that the respondent Nos.4 to 6 have raised an illegal construction without conversion of the land in question. Such construction has allegedly been raised on Dag Nos.465, 463 and 466 pertaining to Khatian Non.526/1 of mouza Brajalalchak, District-Purba Medinipur. The petitioner claims ownership of the said land.

Neither this Court nor the panchayat authorities are empowered by law to decide the question of title of the land. Thus, the allegation of encroachment of the land,

cannot be gone into. The only issue to be decided is whether there has been any construction at the instance of the respondent Nos.4 to 6 on the lands in question, without permission and without conversion to bastu.

As such, the writ petition is disposed of with a direction upon the competent authority of the Chokdwipa Gram Panchayat, District-Purba Medinipur, to dispose of the representation of the petitioner dated January 31, 2022 being annexure P-3 to the writ petition, in accordance with law. While doing so, the gram panchayat shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent Nos.4 to 6, with 48 hours advance notice to the petitioner and the respondent Nos.4 to 6.
- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioner as also the respondent Nos.4 to 6.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without conversion of the land as also without

permission and had been continuing, the authorities may take interim measures by stopping such construction.

- e) A hearing shall be given to all the 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.
- 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 the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

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

The Court has not gone into the merits of the claim of the petitioner and the issues raised shall be decided by the appropriate competent authority of the Chokdwipa Gram Panchayat, District-Purba Medinipur.

The question of title, possession, encroachment, etc. shall not be gone into.

A copy of the writ petition along with a server copy of this order be served upon the Pradhan, Chokdwipa Gram Panchayat, District-Purba Medinipur.

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.)