

29.03.2023
Court No. 19
Items 3 & 4
CP

W.P.A. No. 4651 of 2023

Debasish Bose

Vs.

The State of West Bengal & Ors.

with

WPA No. 4659 of 2023

Debasish Bose

Vs.

The State of West Bengal & Ors.

Mr. Saikat Chatterjee

Mr. Tanmoy Khan

Mr. P. Pal

....for the petitioner.

Mr. Ansar Mondal

Mr. S. Bhattacharyya

....for the State

in W.P.A. No. 4651 of 2023.

Mr. Wasim Ahmed

Sk. Md. Masud

.....for the State

in WPA No. 4659 of 2023.

Mr. Dhananjay Banerjee

Ms. Oindrila Ghosh

.....for the private respondents.

Mr. Suman Basu

....for the Hooghly Zilla Parishad.

As both the writ petitions arise out of the self-same construction, the writ petitions are taken up and disposed of analogously.

The petitioner alleges that Kabita Barui, Tapas Barui and Manas Barui have raised unauthorized construction on L.R. Plot No. 2776/4552 corresponding to Khatian No. 7413 of Mouza – Jolaghata, without any permission.

Learned advocate for the said respondents has handed over a money receipt issued by the Singur No 1 Gram Panchayat which indicates that the fee for construction of a two storeyed building had been deposited. It is further submitted that the ground floor had been sanctioned in 1990 and the sanction plan has been produced before the court.

However it is not clear whether the construction of the first floor had been permitted or not. Moreover, there is also an allegation of construction over a 'Doba' which was subsequently purchased by the respondent no. 7.

Learned advocate for the Hooghly Zilla Parishad specifically submits that no construction had been permitted by the said zilla parishad.

Thus, the writ petition is disposed of with a direction upon the Singur No. 1 Gram Panchayat to treat the writ petition as a representation and dispose of the same in accordance with law. The objections to the alleged construction of the 1st floor and further construction above the said floor and on the 'Doba' shall be decided and determined by the

gram panchayat. In case it is found that the zilla parishad would be the appropriate authority to deal with the constructions by taking into account the height and area of the building, the matter should be transferred to the Hooghly Zilla Parishad. The competent authority, whether it is the panchayat or the zilla parishad, shall follow the procedure stated hereinbelow:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner, Kabita Barui, Tapas Barui and Manas Barui. An advance notice of the inspection shall be served upon the petitioner, Kabita Barui, Tapas Barui and Manas Barui 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, Kabita Barui, Tapas Barui and Manas Barui. 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 accordance with 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.

The disputes with regard to title, possession and boundary etc., shall not be decided by the panchayat authorities.

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.

Photocopy of this order shall be retained with the records of WPA No. 4659 of 2023.

(Shampa Sarkar, J.)