

S/L 9
20.3.2023
Court. No. 19
sn

W.P.A. 4806 of 2023

Putul Das Barui & Another
VS
The State of West Bengal & Ors.

Mr. Satyajit Mandal
Mr. Amit Bikram Mahata

...for the Petitioners.

Mr. Malay Singh
Ms. Neelam Singh

...for the State.

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

Despite service, none appears on behalf of the respondent nos. 7&8. This Court is not inclined to pass mandatory orders in terms of the prayers made in the writ petition, but is relegating the entire matter before the permission granting authority for a decision on the allegations of unauthorized construction by the respondent no.8. Hence, the writ petition is taken up in the absence of the said respondent. The respondent no.8 shall be given every opportunity at every stage to contest the proceeding. A proceeding is to be initiated in terms of Section 23(5) of the West Bengal Panchayat Act, 1973.

The petitioners allege that the respondent no.8 started to raise a construction on plot nos. 2151 and 2152 of mouza Bar Basudebpur, without any permission.

The allegation is that the respondent no.8 had started a construction without any permission from the panchayat authorities.

Without going into the merits of the allegations made by the petitioners, this writ petition is disposed of with a direction upon the Deulpota Gram panchayat, which is the permission granting authority, to dispose of the objection of the petitioners, being Annexure P/6 at page 31 of the writ petition in accordance with law.

While doing so, the following procedure shall be adopted:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent no.8. An advance notice of the inspection shall be served upon the petitioners and the respondent no.8 and on all other interested parties. If the parties are not available to accept notice, the same shall be affixed at conspicuous places 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 had been continuing, the authorities may take such interim measures by stopping such construction.
- c) The 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 questions of right, title, possession and boundary disputes, shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioners and the respondent no.8. 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 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 petitioner and the issues involved shall be decided independently, upon hearing the parties.

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

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

The learned advocate on record for the petitioners is directed to serve a copy of the writ petition along with a server copy of this order upon the Deulpota Gram Panchayat.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)