

14.03.2023
Sl. No.8(DL)
srm

W.P.A. No. 4872 of 2023

Amanulla Laskar

Versus

The State of West Bengal & Ors.

Mr. Tapan Coomar Dey,
Ms. Shreya Chatterjee

....for the Petitioner.

Mr. Viswajit Neogi (Dasgupta)

...for the Respondent No.7/Pradhan.

Md. Hasanuz Zaman,
Md. Zeeshanuz Zaman,
Mr. Shahriyar Karim Akhan

...for the Respondent No.8.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the State-respondents.

The petitioner alleges that the respondent No.8 had raised an unauthorised construction on LR Dag No.483 of mouza Kanthalberia.

The learned Advocate for the respondent No.8 denies such allegation and submits that no such construction was made on Plot No.483. Construction had been made on Plot Nos.478 and 479 of which, the said respondent claims to be the owner. It is also submitted that a title suit is pending and the petitioner had encroached a portion of the land of the respondent No.8.

However, the respondent No.8 has failed to produce any sanction or permission from the gram panchayat with regard to the construction.

The learned Advocate for the Kanthalberia Gram Panchayat submits that on the basis of a complaint from the petitioner, an inspection was made and it was found that there was a construction, without any permission.

The question of title in respect of any of the plots and the allegation of encroachment are matters to be decided in a civil suit. As there is already a, *prima facie*, finding by the panchayat authority, the writ petition is disposed of with a direction upon the Kanthalberia Gram Panchayat, South 24-Parganas to proceed in accordance with law and take necessary steps by adhering to the follow procedure:-

- a) Inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent No.8, with 48 hours advance notice to the petitioner and the respondent No.8.
- b) Such report shall be handed over to the petitioner as also the respondent No.8.
- c) In case, it is found on preliminary inspection that there may be reasons to believe that the construction

was not in accordance with law, the authorities may take interim measures by stopping such construction.

d) 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.

e) A reasoned order shall be passed and communicated to the parties in respect of the alleged construction. 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 allegations and counter-allegations made by the respective parties with regard to the ownership of the lands in question, are not gone into.

The question of title, encroachment, etc. shall not be gone into by the concerned gram panchayat.

A copy of the writ petition along with a server copy of this order be served upon the Secretary, Kanthalberia Gram Panchayat, South 24-Parganas.

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.)