

19.01.2023
Sl. No.837(ML)
srm

W.P.A. No. 4742 of 2022

Sarat Haldar

Vs.

State of West Bengal & Ors.

Mr. Tanmay Basu,
Mr. Arun Shaw,
Mr. Debdip Mondal

....for the Petitioner.

Mr. Soumn Bhattacharjee

...for the Respondent No.8.

Despite service, none appears on behalf of the respondent Nos.1 to 7.

As the Court is not inclined to pass mandatory directions as prayed for, but is relegating the matter before the competent authority, the writ petition is taken up in their absence.

The only issue to be decided by the permission granting authority is whether the construction on Plot No.3182 pertaining to Khatian No.992 under Nalgora Gram Panchayat, District-South 24-Parganas, was unauthorised or not. The other allegation that the construction was being raised in violation of an order of injunction passed in Title Suit No.203 of 2018 shall not be

considered. The remedy of the petitioner in this regard is before the learned civil court.

Without going into the correctness of the allegations made by the petitioner, the writ petition is disposed of with a direction upon the competent authority of the Nalgora Gram Panchayat, District-South 24-Parganas to dispose of the representation of the petitioner dated February 15, 2022 being annexure P-3 at page 18 of 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 No.8, with 48 hours advance notice to the petitioner and the respondent No.8.
- b) A 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 No.8.
- d) 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 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.

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, Nalgora Gram Panchayat, District-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.)