

14.03.2023
Sl. No.11(DL)
srm

W.P.A. No. 5047 of 2023

Subodh Chandra Jana

Versus

The State of West Bengal & Ors.

Mr. Jayanta Kumar Das,
Ms. Madhumita Das

....for the Petitioner.

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

The Court is not inclined to pass mandatory directions as prayed for, but deems it fit to send back the matter before the competent authority, for necessary action. The writ petition is thus, taken up in the absence of the respondent No.8, who will be given adequate opportunity by the authority at every stage of the proceeding.

The allegation of the petitioner is inaction of the Chaulkuri Gram Panchayat No.6, Paschim Medinipur in disposing of the objection of the petitioner with regard to the alleged unauthorised construction raised by the respondent No.8.

The petitioner claims to be a co-sharer along with the respondent No.8 and some other persons in respect of

LR Plot No.1058 of mouza Andulia. It appears that a civil suit is also pending in respect of the plot in question. The Pradhan of Chaulkuri Gram Panchayat No.6, intimated the petitioner that a sanction had been granted to the respondent No.8 for construction on Plot No.1058 within mouza Andulia in the 9th meeting of the gram panchayat dated October 17, 2022. Thus, the allegation of the petitioner that the construction was made without permission is incorrect. The other contention of the petitioner that the construction is being made beyond the sanction plan and in deviation thereof, has to be decided by the authority.

Under such circumstances, the writ petition is disposed of with a direction upon the Chaulkuri Gram Panchayat No.6 to decide the above issue, in accordance with law by adhering to the following 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. The only issue to be decided would be whether the construction had been made in accordance with the plan and the building rules.

- b) 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.
- c) Such inspection report shall be handed over to the petitioner as also the respondent No.8. The extent of unauthorized construction, if any, shall be pointed out.
- 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 Court has not gone into the correctness of the allegations of the petitioner and the issues raised shall be decided by the competent authority.

The question of right, title, encroachment 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, Chaulkuri Gram Panchayat No.6.

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.)