

14.03.2023
Sl. No.13(DL)
srm

W.P.A. No. 5074 of 2023
Angur Ali
Versus
State of West Bengal & Ors.

Mr. Indranil Chandra,
Mr. Ashirbad Sarkar

....for the Petitioner.

Ms. Jayeeta Sinha,
Mr. Ranjit Rajak

...for the State-respondents.

Mr. Manas Kumar Das,
Mr. Tushar Sil

...for the Respondent Nos.14 & 15.

Affidavit-of-service is taken on record.

The petitioner alleges inaction of the Kuli Gram Panchayat, Murshidabad. Alleging unauthorised construction by the respondent Nos.14 and 15 on LR Dag No.67 of mouza Nabagram, an objection was fled.

The petitioner had approached this Court under Article 226 of the Constitution of India on an earlier occasion. The Court had directed the petitioner to approach the competent permission granting authority with specific allegations and the competent permission granting authority was directed to dispose of the complaint of the petitioner in accordance with law.

The petitioner alleges that a notice was issued by the Kuli Gram Panchayat to the parties. A physical inspection was held and it transpired on spot inspection that a three-storeyed building had been constructed in deviation of the permission. The top floor had not been sanctioned and there were many cantilevers on all four sides of the building which had not been provided for in the plan.

A report in the form of instruction has been filed by the Officer-in-Charge, Burwan Police Station, Murshidabad. It appears that on the complaint of the respondent No.14, an FIR was registered. After completion of the investigation, charge sheet had been filed.

Mr. Das, learned Advocate for the respondent Nos.14 and 15 opposes such inspection report and submits that such inspection was held in the absence of the respondent Nos.14 and 15. He further submits that the entire construction was in accordance with the plan. The copies of the plan and permission have also been produced before the Court.

The petitioner submits that notice was issued to all the parties, but the respondent Nos.14 and 15 chose to stay away.

These disputed questions of fact cannot be gone into. However, when there is an order of this Court upon

the permission granting authority to act and proceed on the representation/objection of the petitioner, the authority was duty bound to proceed in accordance with law. As there is a dispute with regard to the absence of the respondent Nos.14 and 15 during such inspection, this Court deems it fit to direct the Kuli Gram Panchayat to hold a further inspection on March 27, 2023 at 11:00 a.m. The parties are present before this Court and no further notice need be served. The parties shall make themselves available at the spot on the aforementioned date and time.

Inspection shall be held. A report shall be prepared and handed over to the parties pointing out the extent of unauthorised construction, if any. The parties shall be entitled to respond to such report. A hearing shall be given to all and a reasoned order shall be passed and communicated. On the basis of what transpires at the inspection and at the hearing, steps shall be taken in accordance with law.

The panchayat authorities shall transmit all the papers along with necessary documents to the Sub-Divisional Officer, Kandi Sub-Division, Murshidabad, for necessary action in terms of Section 23(5) of the West Bengal Panchayat Act, 1973, in case the construction is found to be unauthorised and in deviation of the plan.

The entire exercise shall be completed within a period of two months from March 27, 2023.

This Court has not gone into the correctness of the allegation and the panchayat authorities shall decide the entire issue independently.

The question of right, title and encroachment shall not be decided.

The learned Advocate for the State-respondents shall forward a server copy of this order to the Officer-in-Charge, Burwan Police Station, Murshidabad. The Officer-in-Charge shall intimate this order to the Pradhan of Kuli Gram Panchayat for compliance. The petitioner will also intimate this order to the Kuli Gram Panchayat and serve a copy of the writ petition upon the Pradhan.

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.)