

Item No.17
14.03.2023
Court. No. 19
GB

WPA 5259 of 2023

Shatrughna Maity
Vs
The State of West Bengal & Ors.

*Mr. Saibal Acharya,
Mr. Rajib Kr. Acharyya,
Mr. Banshi Badan Maity*

...for the Petitioner.

*Mr. Subhabrata Datta,
Mr. Sanatan Panja*

...for the State.

*Mr. Saumyen Datta,
Mr. Probir Adhya*

...for the Respondent Nos.11 to 13.

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

The issues on which the writ petition has been entertained, are whether the alleged construction of the respondent nos.11 to 13 on L.R. Plot No.524 corresponding to R.S. Plot No.555 of Mouza-Hogolberia, had been sanctioned by the Hogolberia Gram Panchayat or whether the nature of construction was such that a sanction was not required.

The learned advocate for the petitioner submits that an objection was filed before all the authorities alleging unauthorized erection of a pucca structure on L.R. Plot No.524, in violation of the order of injunction.

The learned advocate for the respondent nos.11 to 13 denies such allegation and submits that the entire issue is pending before the learned civil court. The learned advocate Commissioner filed a report before the learned civil court

and stated that no pucca construction on L.R. Plot No.524 had been detected.

The contention of the learned advocate for the respondent nos.11 to 13 with regard to the contents of the report of the learned advocate Commissioner is denied by the petitioner.

Mr. Datta, learned advocate for the State respondents has submitted that the disputes raised herein, should either be decided by the learned civil court or by the panchayat authorities. On the basis of the complaints of the petitioner with regard to the offences committed by the respondents, investigations have been completed and charge-sheets have been filed.

The findings of the learned advocate Commissioner and the issues before the learned civil court are distinct and separate from the power of the permission granting authority to adjudicate and take steps in respect of an unauthorized construction.

Thus, this Court is of the view that the Hogolberia Gram Panchayat should treat the writ petition as a representation and take a decision as to whether the alleged construction on L.R. Plot No.524 had been permitted by the said permission granting authority or whether the nature of construction did not require any permission. An inspection in this regard shall be made in the presence of all the parties. If it appears that the construction is a temporary one and not made of bricks or concrete, in that event, no further steps shall be taken. Rule 19 of the West Bengal Panchayat (Gram

Panchayat Administration) Rules, 2004 makes an exemption for such type of construction from the applicability of Section 23 of the West Bengal Panchayat Act, 1973. An inspection report shall be prepared and supplied to the parties. If the construction is found to be of concrete and unauthorized, steps shall be taken in accordance with law. A reasoned order shall be passed and communicated to all. The other contention of the petitioner for enforcement of the order of injunction, shall be decided by the civil court in accordance with law.

A hearing shall be given to the petitioner and the respondent nos.11 to 13. A reasoned order shall be passed and communicated to all concerned.

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

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)