

21.3.2023
Ct.19/sl.17
sn

W.P.A. 6037 of 2023

Sailen Sahana

Vs.

The State of West Bengal & Ors.

Mr. Subhasish Mitra

Mr. Shibjit Mitra

..for the petitioner

Ms. Sipra Mazumder

Ms. Sangeeta Roy ..for the State

Despite service, none appears on behalf of the respondent no.7. Let affidavit of service be taken on record.

The petitioner alleges that the respondent no.7 being a Private Limited Company had constructed a brick wall on a “sali” land being LR plot No.923, mouza Amria, without maintaining the minimum distance between the petitioner’s land being LR plot no. 919 of mouza Amria and the said land. Accordingly, a representation has also been filed before the Pradhan, Babnan Gram Panchayat.

As this Court is not inclined to pass mandatory orders in terms of the prayers made in the writ petition, but is relegating the entire matter before the permission granting authority, that is, Babnan Gram Panchayat, the matter is taken up in the absence of the respondent No.7.

The Babnan Gram Panchayat shall treat the writ petition as a representation and dispose of the same in accordance with law.

The issues to be decided would be whether the construction of the brick wall was in compliance of the building rules. Whether the minimum side space had been maintained or not and whether permission had been granted for such construction. The other issue is whether the conversion of the land had been obtained before the construction of the boundary wall.

If the panchayat authorities are of the opinion that the nature of the proposed construction was such that the height would be above 6.5 metres and plinth area would be more than 300 sq.ft. or both, the matter shall be referred to the zilla parishad. In either case, whoever is the permission granting authority, the authority must proceed in accordance with law.

Before the order is passed, an inspection shall be held in presence of the petitioner, the respondent No.7 and all other interested parties. A reasoned order shall be passed upon hearing all the parties. On the basis of what transpires, necessary steps shall be taken in accordance with law.

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

This writ petition is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)