

29.03.2023
Court No. 19
Item no.25
CP

W.P.A. No. 6173 of 2023

Uttam Pal

Vs.

The State of West Bengal & Ors.

Mr. Mahammad Mahmud

Mr. M. Mollah

Ms. Afrin Nahar Mondal

....for the petitioner.

Mr. Himadri Sikhar Chakraborty

Ms. Susnita Saha

....for the State.

Ms. Mekhla Sinha

....for the respondent nos. 3 &4.

Affidavit of service is taken on record.

Despite service, none appears either on behalf of the Pradhan, Domjur Gram Panchayat or on behalf of the respondent no.6.

As this court is not inclined to pass any mandatory order adverse to the interest of the respondent no.6, this writ petition is taken up in his absence. The matter is relegated to the permission granting authority for necessary steps in accordance with law.

The petitioner alleges that the respondent no. 6 has raised an unauthorized construction on L.R. Plot No. 171 of Mouza – Bharderdaha, without any

permission and contrary to the building rules. The petitioner has already approached the Assistant Engineer, Howrah Zilla Parishad by filing an objection being Annexure P-6 at page 33 of the writ petition.

The writ petition is disposed of with a direction upon the Howrah Zilla Parishad to act and proceed in accordance with law by disposing of the said representation. While doing so, the following procedure shall be adopted:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no. 6. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 6 and all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.
- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such interim measures by stopping such construction.

- c) A report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties.
- e) A hearing shall be given to the petitioner and the respondent no. 6. 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. All points raised by either party, will be decided.
- 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 accordance with law.

The court has not gone into the merits of the claims.

The disputes with regard to title, possession and boundary etc., shall not be decided by the authorities.

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

A copy of the writ petition along with a server copy of this order be served upon the concerned permission granting authority for necessary compliance 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.)