

Item No.27
29.03.2023
Court. No. 19
GB

WPA 6257 of 2023

Asit Bag & Anr.
Vs
The State of West Bengal & Ors.

Mr. Samim Ahammed,
Mr. Arka Maiti,
Mr. Rka Ranjan Bhattacharya,
Gulsanwara pervin,
Ms. Saloni Bhattacharjee

...for the Petitioners.

Mr. Maloy Singh,
Ms. Neelam Singh

...for the State.

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

Despite service, none appears on behalf of the respondent nos.8 and 9. As this Court is not inclined to pass any mandatory directions adverse to the interests of the said respondents, the writ petition is taken up and disposed of in their absence.

The petitioners have alleged that the respondent no.5 had passed the order impugned dated August 4, 2022 without any jurisdiction and on a misconception of law and fact.

Although, the Block Development Officer found that the land had been converted from 'Bastu' to 'Sali' by the original owner in terms of an order dated September 5, 2016, vide case no.IX-2/249/DNK of the Block Land and Land Reforms Officer, Dhaniakhali, recent communication from

the present Block Land and Land Reforms Officer indicates that Plot No.5395 continues to be 'Sali'.

The Block Development Officer was directed by a Division Bench of this Court to dispose of the representation of the petitioners who had alleged unauthorized construction by the respondent nos.8 and 9. On the basis of the direction of the High Court, the Block Development Officer heard the parties and came to a finding that a building plan had been sanctioned in favour of the respondent nos.8 and 9 by Dasghara-II Gram Panchayat and that the land had also been converted from 'Bastu' to 'Sali'.

As there is a confusion with regard to the classification of the land and contradictory opinions have been expressed by the Block Development Officer and the Block Land and Land Reforms Officer, the petitioners shall first approach the Block Land and Land Reforms Officer, Dhaniakhali for a decision as to whether any portion of Plot No.5395 had ever been converted from 'Bastu' to 'Sali' at the instance of any person. If the answer is in the negative, then no permission could have been granted by the panchayat authorities contrary to Rule 26 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004.

On the basis of the decision of the Block Land and Land Reforms Officer, further steps shall be taken by the petitioners by approaching the appropriate authorities under the Land Reforms Act and also under the West Bengal Panchayat Act for necessary steps and actions. The other issues have not been decided as the Court finds that the

prayers are premature. Such issues can be raised only after the Block Land and Land Reforms Officer comes to a definite finding with regard to the allegations of non-conversion of the plot of land from 'Bastu' to 'Sali'.

The Block Land and Land Reforms Officer will hold an inspection in presence of all the parties including the gram panchayat authorities, consult relevant records and pass necessary orders upon hearing all concerned, including the respondent nos.8 and 9.

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.)