

Item No.32
29.03.2023
Court. No. 19
GB

WPA 6405 of 2023

Biswajit Sasmal
Vs
The State of West Bengal & Ors.

*Mr. Nirmalya Kumar Das,
Mr. Jahangir Hossain*

...for the Petitioner.

*Mr. Himadri Sikher Chakraborty,
Mrs. Susnita Saha*

...for the State.

Mr. A. Dasgupta

...for the Respondent No.6.

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

The petitioner alleges that the respondent no.6 had raised an unauthorized construction on Plot Nos.603 and 604 of Mouza-Udaychak, without obtaining conversion from the Block Land and Land Reforms Officer as also without permission from the Ballul-I Gram Panchayat.

Reference has been made to a communication from the Pradhan of the concerned gram panchayat by which, certain information under the Right to Information Act was furnished to the petitioner. From the said information, it appears that no permission had been granted by the gram panchayat to Ashok Kumar Ghora for construction of a pucca house on Plot Nos.603 and 604 of Mouza-Udaychak.

The writ petition is disposed of with a direction upon the Balluk-I Gram Panchayat to treat the writ petition as a representation and dispose of the same in accordance with

law. 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 on 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 in deviation of the building rules 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. The question of title, possession and boundary dispute etc. shall not be decided by the panchayat authorities. The issues to be decided would be whether any construction had been made on the alleged plots of land without obtaining prior permission from the permission granting authority and without conversion of the same from 'Jal' to 'Bastu'.

- 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 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 terms of Section 23(5) of the West Bengal Panchayat Act, 1973.

The court has not gone into the merits of the claims of the petitioners and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of four 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.)