

M/L 20
03.04.2023
Court. No. 19
GB

W.P.A. 6421 of 2023

Rajkumar Sasmal
VS
The State of West Bengal & Ors.

*Ms. Pampa Dey Dhabal,
Mr. Nikhil Kumar Gupta*

...for the Petitioner.

*Mr. Dwarikanath Mukherjee,
Mr. Janardan Mandal*

...for the State.

*Mr. Tanmoy Mukherjee,
Mr. Kamal Mishra,
Mr. Subhadeep Maitra*

...for the Respondent No.10.

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

As the gram panchayat has already issued a notice
upon the respondent no.10 with regard to the legality of the
construction, the grievance of the petitioner has been met.
The panchayat authority shall proceed in accordance with
law and take steps in terms of Section 23(5) of the West
Bengal Panchayat Act, 1973 if any unauthorized construction
is detected.

This Court does not make any observation on the
merits of the issues involved.

Mr. Mukherjee, learned advocate appearing on behalf
of the respondent no.10 submits that at the relevant point of
time, a written permission upon deposit of fees was
sufficient and plans were not required to be furnished for
grant of sanction.

Thus, while deciding the issues, 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.10. An advance notice of the inspection shall be served upon the petitioner and the respondent no.10 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 without conversion and was continuing, the authorities may take such interim measures by stopping such construction.
- c) The 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 questions to be decided by the panchayat authorities would be whether the construction had been made without any permission and/or without conversion and/or in violation of the building rules. The age of the construction shall also be determined.

- e) A hearing shall be given to the petitioner and the respondent no.10. The parties must also be allowed to furnish their written objection/version to the respective reports 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 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.)