

S/L 37
29.3.2023
Court. No. 19
sn

W.P.A. 6480 of 2023

Tarun Das Adhikari & Another
VS
The State of West Bengal & Ors.

Sk. Jayed Hossain

...for the Petitioners.

Mr. L.M. Mahata

Mr. P.B. Mahata

...for the State.

Mr. Uttam Kr. Bhattacharyya

Mr. Kaustav Mishra

..for the respdts.10-12

Affidavit-of-service filed in Court today, be kept with the record. The Pradhan of Ramchak No.6 Gram Panchayat has refused service. The postal article with the endorsement “refused” is taken on record.

The petitioners allege that the respondent nos. 10 to 12 have raised three separate constructions on LR dag nos.1048 and 1019 of mouza Ramchak, without any permission from the Ramchak no.6 Gram Panchayat. Further allegation is that the lands have not been converted to ‘Bastu’.

The petitioners had already approached the concerned Gram Panchayat by filing necessary objections. Such objection is Annexure P/2 at page 12 of the writ petition.

Mr. Bhattacharyya, learned advocate for the respondent nos.10 to 12 submits that the construction has been made on the basis of the permission granted by the authorities, strictly in accordance with the plan.

The dispute which has been raised, cannot be decided by this Court.

Under such circumstances, this writ petition is disposed of with a direction upon the Ramchak No.6 Gram Panchayat to dispose of the representation of the petitioners, which is Annexure P/2 at page 12 of the writ petition, 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 petitioners and the respondent nos.10 to 12. An advance notice of the inspection shall be served upon the petitioners and the respondent nos.10 to 12 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 had been 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. Right, title, possession and boundary disputes, shall not be decided by the panchayat authorities.

- e) A hearing shall be given to the petitioners and the respondent nos.10 to 12. 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 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 petitioner and the issues involved shall be decided independently, upon hearing the parties.

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

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

The learned advocate on record for the petitioners is directed to serve a copy of the writ petition along with a server copy of this order upon the Ramchak No.6 Gram Panchayat.

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

(Shampa Sarkar, J.)