

S/L 8
30.3.2023
Court. No. 19
sn

W.P.A. 6699 of 2023

Dhirendranath Mahata & Ors.
VS
The State of West Bengal & Ors.

Mr. Samiran Mandal
Mr. Abhinaba Dan

...for the Petitioners.

Mr. Manas Kundu
Md. Mansoor Alam

...for the State.

Mr. Shyamal Kr. Pandey
Mr. Somenath Ganguly

..for the respdts.6&7

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

The petitioners allege that the respondent nos. 6&7
have raised a construction on plot no. 192/488 on mouza
Puranpani, without any permission and contrary to the rules.
Although the petitioners claim right, title and interest in
respect of the said plot, such issue cannot be decided either
by the writ court or by the panchayat authorities. The record
of rights and the reply under the Right to Information Act
which have been relied upon by the petitioners are not
relevant for the determination of the issue of unauthorized
construction.

The learned advocate for the respondent nos. 6&7
denies the allegations and submits that the construction had
been made as per law and the claim of the petitioners with
regard to title over the property in question, cannot be
decided by the writ court.

Under such circumstances, the only issue that can be decided by the panchayat authority is whether the construction of the respondent nos. 6&7 was in accordance with law or not.

Under such circumstances, this writ petition is disposed of with a direction upon the Haludkanali Gram Panchayat to dispose of the representation of the petitioners 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.6&7. An advance notice of the inspection shall be served upon the petitioners and the respondent nos.6&7 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 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. The questions of 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.6&7. 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 petitioners 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 Haludkanali Gram Panchayat.

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

(Shampa Sarkar, J.)