

S/13
30.3.2023
Court. No. 19
sn

W.P.A. 6885 of 2023

Md.Sulaiman Laskar
VS
The State of West Bengal & Ors.

Mr. Ziaul Islam

...for the Petitioners.

Mr. Ranjit Singh

..for the respdts.7-9

The petitioner alleges that the respondent nos.7-9 have raised some unauthorized construction on LR plot no.537 of mouza Usthi without any sanction from the panchayat authorities.

Learned advocate for the respondent nos. 7 to 9 relies on the purchase deed and submits that the land along with structure had been purchased some time in 1999. The allegation of unauthorized construction is denied. He further submits that a title suit is pending between the parties, being Title Suit no.115 of 2021.

It also appears that an order of status quo with regard to the right, title, interest and possession of the parties in respect of the suit property had been passed.

However, the issues pending before the learned civil court are with regard to the right, title and interest of the respect parties over the land in question, but the same does not have any bearing on the allegation of unauthorized construction.

Under such circumstances, this writ petition is disposed of with a direction upon the Usthi Gram Panchayat

to dispose of the objection of the petitioner, which is Annexure P/2 at page 13 of the writ petition, in accordance with law. Only the issue of unauthorized construction will be decided.

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 nos.7-9. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.7-9 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) 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 questions of right, title, possession and boundary disputes, shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioner and the respondent nos.7-9. 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 petitioner is directed to serve a copy of the writ petition along with a server copy of this order upon the Usthi Gram Panchayat.

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

(Shampa Sarkar, J.)