

ML 62
01.05.2023
Court. No. 19
GB

WPA 6637 of 2022

Sagarmoy Pal & Anr.
Vs
The State of West Bengal & Ors.

*Mr. Tauhid Khan,
Mrs. Marufa Mondal*

...for the Petitioners.

*Ms. Sipra Mazumdar,
Ms. Sangeeta Roy*

...for the State.

Ms. Mekhla Sinha

...for the Howrah Zilla Parishad.

*Mr. Suman Bhattacharjee,
Mr. Amal Kumar Dutta*

...for the Respondent No. 14.

The petitioners allege that the respondent no. 14 had raised a construction without any permission from the Howrah Zilla Parishad within the area which is notified to be under the Kolkata Metropolitan Development Authority.

The Court is not inclined to go into the merits of the allegations. It appears from the pleadings that the alleged construction is on Plot No.5414, J.L. No.20 of Mouza-Kolorah.

The writ petition is disposed of with a direction upon the competent authority of the Howrah Zilla Parishad to dispose of the representation of the petitioner dated January 27, 2022, which is Annexure-P/2 at Page-19 of the writ petition in accordance with law. If it is found that the permission granting authority would not be the zilla parishad but either the gram panchayat or the panchayat samiti, the matter shall be referred to the appropriate authority.

The following procedure shall be adopted by the appropriate authority:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent no. 14. An advance notice of the inspection shall be served upon the petitioners and the respondent no. 14 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 any sanction and/or permission 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 authorities. The questions to be decided would be whether the construction had been made without any permission or in violation of the building rules.
- e) A hearing shall be given to the petitioners and the respondent no. 14. 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 accordance with provisions of the Act, Rules and bye-laws.

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

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