

01.05.2023  
Court No. 19  
Item 16  
CP

WPA 7138 of 2023

Arun Dhibar & Anr.  
VS  
The State of West Bengal & Ors.

Mr. Satya Ranjan Kundu  
... for the Petitioner.  
Mr. Manoj Malhotra,  
Mr. Amit Kr. Ghosh  
... for the State.  
Mr. Soumik Ganguli,  
Ms. Chandana Chakraborty  
... for the Respondent Nos.10, 12,13 & 15.

The petitioners have clubbed together constructions of ten respondents who have allegedly constructed on Plot Nos. 977, 1083 and 1056 of Mouza – Gopalpur, without conversion and allegedly without any permission. The petitioners submit that the petitioners have 2/9<sup>th</sup> share in the entire area comprising of the three plots and such share of the petitioners had been declared by a learned civil court. The petitioners further submit that another suit for declaration and injunction is pending and an order of status quo had been passed directing the parties not to change the nature and character of the suit land mentioned in the schedule of the plaint. Such suit has been registered as Title Suit No. 103 of 2004. The lands are allegedly recorded as pond.

The contention of Mr. Ganguli, learned advocate for the respondent Nos.10, 12,13 & 15, that

the ad-interim order of status quo passed by the civil court, was not upon the respondent nos. 7 to 16, is not relevant. The fact that the petitioners sold out a large portion of their share is also not relevant for adjudication of the issue of unauthorized construction.

It appears from the records that the petitioners had filed a representation against the constructions of all the respondents.

In the opinion of the court, the petitioners must raise individual grievances against each of the constructions before the permission granting authority. If such objections are filed, pointing out the illegalities in the alleged construction by each of the respondents, the Ardhagram Gram Panchayat shall act in accordance with law and dispose of the same. While doing so, the authorities will follow the procedure stated hereinbelow:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the person who has raised the alleged unauthorized construction. An advance notice of the inspection shall be served upon the petitioners and the the alleged person who has raised the unauthorized construction 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 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.
- e) A hearing shall be given to the petitioners and the alleged person who had raised the unauthorized construction. 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.

The court has not gone into the merits of the claims.

The entire exercise shall be completed within a period of four months from the date of receipt of the representation.

The issues to be decided would be whether the alleged construction on the plots mentioned hereinabove, had been raised without conversion as also without permission from the concerned gram panchayat. The disputes with regard to title, possession and boundary etc., shall not be decided by the panchayat authorities.

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.)**