

04.04.2023
Sl. No.32(ML)
srm

W.P.A. No. 7322 of 2023

Sabir Ali Sardar & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Maidul Islam Kayal,
Mr. Sumit Naskar

....for the Petitioners.

Mr. Shahan Shah,
Sk. Abumusa,
Mr. Sirajul Haque Mondal

...for the Respondent Nos.11 & 12.

The petitioners allege that the respondent Nos.11 and 12 have raised a construction on LR Dag No.1393 of mouza Mayapur, without obtaining any sanction and without leaving adequate side spaces required to be maintained under the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004. Some photographs have been annexed to the writ petition in support of such contention. It also appears that the construction is in progress.

However, it appears that the petitioners have not raised specific objection before the Mayapur Gram Panchayat, South 24-Parganas, which is the permission granting authority.

Without going into the merits of the allegations made in the writ petition, the writ petition is disposed of granting liberty to the petitioners to approach the concerned gram panchayat, that is the permission granting authority by filing their objection. If such objection is filed, the same shall be disposed of in accordance with law.

While doing so, the permission granting authority shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent Nos.11 and 12, with 48 hours advance notice to the petitioners and the respondent Nos.11 and 12.
- b) A report of the inspection shall be prepared along with the sketch map, indicating the extent of unauthorized construction, if any.
- c) Such report shall be handed over to the petitioners as also the respondent Nos.11 and 12.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and in violation of the building rules and had been continuing, the authorities may take interim measures by stopping such construction.

- e) A hearing shall be given to all the parties. 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.
- 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 the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

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

The Court has not gone into the merits of the claims and counter-claims of the parties and the issues raised shall be decided by the competent authority.

The question of title, possession, encroachment, etc. shall not be gone into.

A copy of the writ petition along with a server copy of this order be served upon the Secretary, Karimpur Gram Panchayat-I, District-Nadia.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of
this order.

(Shampa Sarkar, J.)