

04.04.2023
Court No. 19
Item no.10
CP

WPA No. 7489 of 2023

Dilip Kumar Giri & ors.
Vs.
The State of West Bengal & Ors.

Mr. Biswajit Sau
Mr. Sohhom Sau

....for the petitioners.

Mr. Tarun Kumar Ghosh
Mr. Tapan Roy

.....for the State.

Mr. Arindam Paul

....for the respondent nos. 5 to 7.

The Haripur Gram Panchayat shall dispose of the representation of the petitioners addressed to the Pradhan, through their learned advocate, dated March 8, 2023. While disposing of the said representation, the determination will be restricted to the question whether the respondent nos. 5 to 7 had raised any construction on L.R. Dag No. 2749 of Mouza – Uttar Chandanpiri, illegally and without permission.

The learned advocate for the respondent nos. 5 to 7 denies the allegation of unauthorized construction. It is their specific contention that they have been in possession of the said land for the past 50 years by building a dwelling house. The house

was also built more than 50 years ago. It is submitted that the provisions of the West Bengal Panchayat Act, 1973 would not be applicable as the construction was made prior to coming into force of the said act.

While deciding the issue, 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 respondent nos. 5 to 7. An advance notice of the inspection shall be served upon the petitioners and the respondent nos. 5 to 7 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. An authorized engineer either from the block office or from the office of the Sub-Divisional Officer shall form part of the inspection team in order to ascertain the age of the building.
- 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) The age of the building as determined by the inspection team shall also be reflected in the report. Such report shall be handed over to the parties.
- e) A hearing shall be given to the petitioners and the respondent nos. 5 to 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.

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 communication of this order.

The disputes with regard to title, possession and boundary etc., shall not be decided by the panchayat authorities.

A copy of the writ petition along with a server copy of this order, be served upon the concerned gram panchayat for necessary compliance 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.)