

17.04.2023
Court No. 19
Item no.27
CP

WPA No. 7975 of 2023

Mucha Khan
Vs.
The State of West Bengal & Ors.

Mr. Saumen Gayen
Mr. Sandipan Maity

....for the petitioner.

Mr. Benazir Ahmed

....for the State.

Affidavit of service is taken on record.

Despite service, none appears on behalf of the
respondent nos. 6, 7 and 9 to 12.

As this court is not inclined to pass any
mandatory directions as prayed for, but deems it fit
to relegate the matter to the permission granting
authority, this writ petition is taken up in their
absence.

The petitioner alleges that the respondent nos.
9 to 12 had raised an unauthorized construction on
L.R. Plot No. 586, 586/971 of Mouza – Uttar
Shibganj, without any permission and without
conversion of the land from sali to bastu.

According to the provisions of Section 23 of
the West Bengal Panchayat Act, 1973, no person can
construct without permission from the gram
panchayat. According to Rule 26 of the West Bengal

Panchayat (Gram Panchayat Administration) Rules, 2004, the gram panchayat is not empowered to grant sanction for construction on any land, apart from homestead land.

Without going into the merits of the allegations of the petitioner the writ petition is disposed of with a direction upon the Lalpur Gram Panchayat to dispose of the representation of the petitioner dated February 21, 2023, in accordance with law. 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 petitioner and the respondent nos. 9 to 12. An advance notice of the inspection shall be served upon the petitioner and the respondent nos. 9 to 12 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 conversion and 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 petitioner and the respondent nos. 9 to 12. 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. The issues to be decided would be, whether any construction had been made without any sanction and/or in deviation of sanction as also without conversion of the land from sali to bastu.

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.)