

17.04.2023
Court No. 19
Item no.29
CP

WPA No. 8056 of 2023

Samsujjoha Sk. & anr.

Vs.

The State of West Bengal & Ors.

Mr. Pawan Kumar Gupta

Mr. Vijay Verma

Ms. Sofia Nesar

....for the petitioner.

Ms. Piyali Sengupta

Ms. Sanjukta Samanta

....for the State.

Mr. Shibasis Chatterjee

....for the respondent nos. 6 &7.

The petitioners allege that the respondent nos. 6 and 7 had been raising a construction on Plot No. 477/1311 of Mouza – Kanupur, without any permission from the Kanupur Gram Panchayat. Further allegation is that the construction is being raised in violation of the order of status quo passed by a learned civil court, in a partition suit.

Learned advocate for the respondent nos. 6 and 7 denies such allegation and submits that the land has been classified as ‘Bagan’ and the question of raising construction thereupon, did not arise. He further submits that the only allegation in the writ petition is that the respondent nos. 6 and 7 were felling trees in violation of the order of status quo.

That such allegation should be decided by the learned civil court.

Learned advocate for the petitioners draws the attention of the court to a query made before the SPIO, Kanupur Gram Panchayat for supply of copies of the sanctioned building plan and the sanction order with respect to the constructions on the alleged plot and some other plots. The said query under the Right to Information Act has not been answered. Further attention is drawn to the demand of justice which is annexure P-4 at page 49 of the writ petition.

It appears that the petitioners had approached the panchayat authorities for information as to whether any construction had been permitted on the alleged plot No. 477/1311 and some other plots. Copies of the sanction plan and the letter granting sanction had also been asked for.

The writ petition is disposed of with a direction upon the Kanupur Gram Panchayat, to furnish information to the petitioners, as to whether any sanction had been granted in favour of the respondent nos. 6 and 7, for construction on Plot No. 477/1311. If the answer is in the affirmative, a copy of the sanction plan and the letter granting sanction shall be supplied to the petitioners at the cost of the petitioners.

Such action shall be taken by the panchayat authorities within a period of four weeks from the date of communication of this order.

If the answer is in the negative, the gram panchayat shall act and proceed in accordance with law. While doing so, the gram panchayat 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. 6 and 7. An advance notice of the inspection shall be served upon the petitioners and the respondent nos. 6 and 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.
- 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 respondent nos. 6 and 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 allegations made by the petitioners.

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

With regard to the allegation of violation of the interim order of status quo, the petitioners are at liberty to take necessary steps before the learned civil court. Prayer for enforcement of the order of status quo with police help can also be made. If such

applications are filed, the same shall be decided on contest and in accordance with law.

It is made clear that the questions with regard to right, title, interest and encroachment 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.)