

Item No.16
26.04.2023
Court. No. 19
GB

WPA 8069 of 2023

Sitaram Basaria
Vs
The State of West Bengal & Ors.

Mr. Tapash Kr. Bhattacharya,
Mr. Aviroop Bhattacharya,
Mr. B.P. Singha Roy

...for the Petitioner.

Mrs. Jhuma Chakraborty,
Mr. Aritra Ghosh

...for the State.

Mr. Sankar Paul,
Ms. Tapati Sarkar

...for the Respondent No.8.

The petitioner alleges that the respondent no.8 had raised a construction on L.R. Plot No.1094, corresponding to L.R. Khatian No.1278 of Mouza-Karimpur No.6.

The learned advocate for the respondent no.8 denies such allegation. A plan of a G+1 storeyed building, sanctioned by the Pradhan of Karimpur-I Gram Panchayat on February 6, 2019, has been handed over. The learned advocate further submits that on the basis of a representation made by the petitioner, the parties were called for a hearing by the Karimpur-I Gram Panchayat sometime in February 2023. An enquiry was also made pursuant to such complaint. It is submitted that the construction has just commenced and there has been no violation of the sanction plan.

Mr. Bhattacharya, learned advocate appearing on behalf of the petitioner submits that a three storeyed

building has been constructed and reliance has been placed on the photographs annexed to the writ petition.

The disputed question which have arisen in this proceeding, cannot be decided by the Court. The Court deems it fit to relegate the matter before the authority empowered by law to decide the issue of unauthorized constructions. The petitioner is granted liberty to approach the gram panchayat in accordance with law. If the gram panchayat finds that the construction is contrary to the sanction granted, steps shall be taken accordingly.

While doing so, the following procedure shall be adopted:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no.8. An advance notice of the inspection shall be served upon the petitioner and the respondent no.8 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 any sanction 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. The question of title, possession and boundary dispute etc. shall not be decided by the panchayat authorities. The questions to be decided would be whether the construction had been made without any permission or in violation of the building rules.
- e) A hearing shall be given to the petitioner and the respondent no.8. The parties must also be allowed to furnish their written objection/version to the 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, 1973.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of three months from the date of receipt of petitioner's representation.

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.)