

April 17, 2023
Sl. No.33
Court No.19
s.biswas

WPA 8189 of 2023

Namita Rani Sarkar alias Namita Sarkar
vs.
The State of West Bengal and others

Mr. Kallol Basu,
Mr. Samik Sarkar, Advocates

... for the petitioner

Mr. Lalit Mohan Mahata, AGP
Mr. Prasanta Behari Mahata, Advocate

... for the State

Affidavit of service filed by the petitioner is
taken on record.

It appears from the postal report that the
respondent no.4 had left the premises where the
postal article was sent, without any information.

The allegation is that the said respondent had
raised a construction on L.R. Plot No.846, Mouza-
Karimpur. The said land is adjacent to the land of
the petitioner. Without leaving adequate side space
and set-back space, such construction had been
made. According to Mr. Basu, learned advocate for
the petitioner, there has been violation of Rule 24 of
the West Bengal (Gram Panchayat Administration)
Rules, 2004.

The Court finds that the respondent no.4 had
left the premises without any information to the post
office, although the contention of the petitioner is
that the writ petition was sent to the same premises
where the construction had been made. The
respondent No.4 is the neighbour of the petitioner. A

sanction plan issued in favour of respondent no.4 has also been annexed, which indicates that such sanction had been granted for construction on R.S. Dag No.846 corresponding to Khatian No.4506, J.L. No.6 of Mouza-Karimpur.

The Court is not inclined to decide the issue and finds that no useful purpose will be served in keeping the matter pending. The Court deems it fit to relegate the matter to the authority empowered by law to deal with the allegation. The respondent no.4 shall get adequate opportunity to substantiate his case and prove that the contention of the petitioner is not correct.

The writ petition is disposed of directing the Karimpur-I Gram Panchayat to decide the representation/complaint filed by the petitioner before the Pradhan, Karimpur-I Gram panchayat on February 27, 2023, in accordance with law.

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.4. An advance notice of the inspection shall be served upon the petitioner and the respondent no.4 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 right, title, interest, possession and boundary dispute etc. shall not be decided by the panchayat authorities. The issues to be decided would be whether the construction is in accordance with the sanctioned plan or in absence thereof and in accordance with the rules.
- e) A hearing shall be given to the petitioner and the respondent no.4. 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 petitioners and the issues involved shall be decided independently.

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

(Shampa Sarkar, J.)