

24.04.2023
Court No. 19
Item no.17
CP

W.P.A. No. 8236 of 2023

Sri Swapan Mahato

Vs.

The State of West Bengal & Ors.

Mr. Partha Pratim Roy

Mr. Sougata Mitra

Mr. R. Sinha

Ms. Ankita Dey

Mr. Subhodeep Maitra

....for the petitioner.

Mr. Raja Saha

Mr. Amit Kr. Ghosh

....for the State.

Mr. Aritra Shankar Ray

.....for the respondent no. 8.

The petitioner alleges that the respondent no. 8 had raised a construction on Plot No. 324 of Mouza – Dulmi, without leaving adequate site space.

Learned advocate for the respondent no. 8 submits that construction was as per the sanction granted by the panchayat authorities.

Without going into the merits of the allegations made by the petitioner, the writ petition is disposed of with a direction upon the Sonajhuri Gram Panchayat to dispose of the representation dated January 30, 2023, addressed to the Pradhan, Sonajhuri Gram Panchayat, 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 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 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 no. 8. 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 only issue to be decided would be whether the construction was raised by the respondent no. 8 in accordance with a sanctioned plan or not. The question of encroachment shall not be decided.

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.)