

S/L 548
10.2.2023
Court. No. 19
sn

W.P.A. 5700 of 2016

Ranajit Chandra Das
VS
The State of West Bengal & Ors.

Mr. Kallol Kr. Basu
Mr. Biswajit Hazra
Mr. A. Sain
Md. Jannat Ul Firdous

...for the Petitioner

Mr. Soumitra Bandopadhyay
Mr. Priyabrata Batabyal

...for the State.

Mr. Washif Ali Mondal

..for the respdts.5(a) to 5(d)

The petitioner alleges that the respondent no.5, since deceased, who is represented by his heirs and legal representatives, had made certain constructions on plot nos. 224 and 2524 of mouza Dakshin Chatra, without any permission and without leaving the minimum space required between two constructions.

The learned advocate for the respondent nos.5(a) to 5(d) denies such allegations and submits that the construction was made in accordance with the sanction plan given by the concerned gram panchayat. The learned advocate has filed an information given by the Pradhan-in-Charge of Chatra Gram Panchayat, indicating that the permission for construction on plot nos. 224 and 2524 had been granted on November 18, 2015 and the construction was completed sometime on August 16, 2022. Learned Advocate further submits that the construction of the petitioner is without any permission.

This writ petition is disposed of granting liberty to the parties to ventilate their grievances by filing proper applications before the concerned Gram Panchayat. It is the specific case of the petitioner that the construction on plot nos. 224 and 2524 was without permission and if, at all, the permission was given, the construction was not made within the validity of the plan. There is further allegation of not leaving minimum side space. To dispute such allegation, a copy of the sanction plan has been produced by the respondent nos. 5(a) to 5(d) along with a letter of the Pradhan.

This Court is of the view that the allegations and counter-allegations must be decided by the competent authority of the concerned gram panchayat. If the parties approach the gram panchayat with their individual applications and/or representations, the applications/representations shall be decided and disposed of upon granting an opportunity to the parties to place their cases.

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

- a) Inspections of both the constructions shall be conducted. Such inspections shall be held in the presence of the petitioner and the respondent nos. 5(a) to 5(d). Advance notices of the inspections shall be served upon the petitioner and the respondent nos. 5(a) to 5(d) and all other interested parties. If the parties are not available to

accept notices, the same shall be affixed at conspicuous places in their respective premises.

- b) In case, it is found on preliminary inspection that there may be reasons to believe that the constructions were without permission and had been continuing, the authority may take such interim measures by stopping such constructions.
- c) The reports of such inspections shall be prepared along with a sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such reports shall be handed over to the parties. The issues that shall be decided are whether there are constructions with or without permission. Whether the constructions were made within the period of validity of any plan and whether the constructions had been made in accordance with the building rules by leaving adequate side space.
- e) A hearing shall be given to the petitioner and the respondent nos.5(a) to 5(d). The parties must also be allowed to furnish their written objections/versions to the said reports 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) Reasoned orders shall be passed and communicated to the parties in respect of both the constructions. On the basis of what transpires at the hearing and during inspections, the

proceedings shall be reached to their logical conclusion in terms of Section 23(5) of the West Bengal Panchayat Act, 1973.

The questions of right, title, possession and boundary disputes, shall not be decided by the panchayat authorities.

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

The court has not gone into the merits of the claims and counter-claims of the parties and the issues involved shall be decided independently, upon hearing the parties.

The learned advocate on record for the petitioner is directed to serve a copy of the writ petition along with a server copy of this order upon the Secretary, Chatra Gram Panchayat, District-North 24-Parganas

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.)