

18.04.2023
Court No. 19
Item no.13
CP

WPA No. 8306 of 2023

Ombar Ali Mondal @ Ombar Moral
Vs
The State of West Bengal & Ors.

Mr. Gora Chand Samanta

... for the Petitioner.

Mr. Asish Kumar Guha
Mr. Naren Ghosh Dastidar

... for the State.

Mr. Sounak Bhattacharya
Mr. Chandra Nath Sarkar

...for the respondent nos. 6 to 8.

The petitioner alleges that the respondent nos. 6 to 8 had raised certain constructions on Plot No. 681 of Mouza – Dhuri, without any permission from the panchayat authorities and in violation of an order of status quo, passed by the learned civil court in Title Suit No. 93 of 2021.

Learned advocate for the respondent nos. 6 to 8 submits that upon receipt of funds under the Pradhan Mantri Awas Yojana (in short 'PMAY'), the construction had been raised. He further submits that an application under Section 151 of the Code of Civil Procedure had been filed before the learned Civil Judge (Senior Division), 1st Court, Baruipur, South 24 Parganas, praying for permission to construct despite there being an order of status quo with

regard to the nature, character and possession of the parties to the suit.

The petitioner prayed that the interim order be varied and/or modified by invocation of Order 39 Rule 4 of the Code of Civil Procedure.

Learned court modified the order of status quo, thereby allowing the petitioner and his wife to make a construction in terms of the PMAY in place of the existing old building. The learned court further clarified that such construction would not create any right, title and interest in favour of the parties to the suit and no equity could be claimed by the respondents.

Under such circumstances, this court is of the view that the allegation of the petitioner of unauthorized construction in violation of the provisions of the panchayat act is not sustainable in law. In case of construction under the PMAY Scheme or any other housing scheme for the poor, permission from the gram panchayat would not be necessary. The beneficiaries are to construct on the basis of a model/sketch that is supplied to such beneficiaries under the scheme.

In this case, the learned civil court permitted the respondent nos. 6 and 7 to construct on the basis of the PMAY, specifically clarifying that the said respondents could not claim any equity in respect of

such construction meaning thereby, that the construction would be subject to the final decree in the partition suit.

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.)