

20.04.2023
Court No. 19
Item no.10
CP

WPA No. 8315 of 2023

Sukumar Paul
Vs.
The State of West Bengal & ors.

Mr. Subhrajyoti Ghosh

....for the petitioner.

Mr. Susanta Pal
Ms. Ananya Neogi

....for the State.

Mr. Kanailal Samanta

....for the respondent no. 7.

Despite service, none appears on behalf of the respondent nos. 2, 3, 5 and 6.

As this court is not inclined to pass any mandatory directions as prayed for, but deems it fit to relegate the matter to the permission granting authority, this writ petition is taken up in their absence.

The petitioner alleges that the respondent nos. 5 and 6 had raised a construction on L.R. Plot No. 5006/6723 corresponding to Khatian No. 1120, J.L. 98 of Mouza – Jamkuri, without obtaining conversion and without permission. Further allegation is that the said land belongs to the petitioner.

The right, title and interest of the parties in respect of the said land in question, cannot be decided by the writ court. The panchayat authorities are also not empowered by law to decide such issue. Hence, the allegation of forceful occupation of the land and encroachment by the respondent nos. 5 and 6, has to be decided by a civil court.

The panchayat authorities are empowered to determine the issue of unauthorized construction and proceed on the basis of Section 23(5) of the West Bengal Panchayat Act, 1973.

The writ petition filed by the petitioner is vague. The exact illegality in the alleged construction has not been disclosed. No orders can be passed on the application filed before this court. Vague and omnibus allegations cannot be entertained.

Without going into the merits of the allegations of the petitioner, the writ petition is disposed of with liberty to the petitioner to approach the Jamkuri Gram Panchayat by filing a proper representation. Once such representation is filed, the panchayat authorities shall act and proceed in accordance with law to dispose of the same. 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 nos. 5 and 6. An advance notice of the inspection shall be served upon the petitioner and the respondent nos. 5 and 6 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 nos. 5 and 6. 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 receipt of the petitioner's representation.

The disputes with regard to title, possession and boundary etc., shall not be decided by the panchayat authorities.

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.)