

12.04.2023
Sl. No.29(DL)
srm

W.P.A. No. 8392 of 2023

Kartick Singh & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Debnath Ganguly,
Mr. Aranya Saha

....for the Petitioners.

Mrs. Sipra Majumdar,
Mrs. Prativa Ghatak

...for the State-respondents.

Despite service, none appears on behalf of the respondent Nos.2, 3 and 6. Affidavit-of-service is taken on record.

The Court is not inclined to pass mandatory directions as prayed for, but deems it fit to send back the matter before the competent authority for necessary steps. The writ petition is thus, taken up in the absence of the respondent No.6 who will be given adequate opportunity of hearing by the authority.

The petitioners allege that the respondent No.6 started raising an illegal construction on LR Plot No.735 of mouza Madanpur, within the jurisdiction of Madanpur-I Gram Panchayat, Nadia. According to the petitioners, the said construction was being raised without any prior

sanction and without leaving the mandatory side spaces as required by the rules.

The petitioners approached the Pradhan of Madanpur-I Gram Panchayat, Nadia by filing an objection dated March 22, 2023 which is annexure P-3 at page 51 of the writ petition.

Under such circumstances, the writ petition is disposed of with a direction upon the Madanpur-I Gram Panchayat, Nadia to dispose of the representation of the petitioner, in accordance with law.

While doing so, the permission granting authority shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent No.6, with 48 hours advance notice to the petitioners and the respondent No.6.
- b) A report of the inspection shall be prepared along with the sketch map, indicating the extent of unauthorized construction, if any.
- c) Such report shall be handed over to the petitioners as also the respondent No.6.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction

was without permission and in violation of the building rules and had been continuing, the authorities may take interim measures by stopping such construction.

- e) A hearing shall be given to all the parties. 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.
- 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 the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

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

The Court has not gone into the merits of the claims of the petitioners and the issue raised shall be decided by the competent authority, independently.

A copy of the writ petition along with a server copy of this order be served upon the Secretary, Madanpur-I Gram Panchayat, Nadia.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)