

13.04.2023
Court No. 19
Item no.17
CP

W.P.A. No. 8435 of 2023

Susenjit Kayal

Vs.

The State of West Bengal & Ors.

Mr. Pankaj Halder
Mr. Sanatan Panja
Mr. Tapas Manna
Mr. Neelabha Bera
Mr. Bodhidipta Mandal

....for the petitioner.

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee

....for the State.

Mr. Nayeemuddin Munshi

....for the respondent no. 9.

Mr. Sk. Rejaul Alam

.....for the respondent no. 7.

The writ petition has been filed alleging that the respondent no. 9 had constructed a shop room without any permission and sanction from the concerned gram panchayat.

Learned advocate for the respondent no. 9 denies the allegation and submits documents to show that way back in 1990, permission had been granted by the panchayat authorities. Thus, the construction according to him is in accordance with the permission. He further submits that as an outburst to the writ petition filed by the said

respondent before this court alleging encroachment on government land by the brother-in-law of the petitioner, this writ petition has been filed.

Learned advocate for the panchayat authorities submits that on the complaint of the petitioner, notice of hearing have already been issued to the parties.

The court is not inclined to enter into the disputed questions of fact. It is submitted that a permission had been granted to the respondent no. 9, for construction. Such fact has been denied. The gram panchayat is the appropriate authority to decide the dispute.

The writ petition is disposed of directing the Gateswar Gram Panchayat to act and proceed in accordance with law and take decision as to whether the construction has been made as per the permission and in compliance with the building rules.

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. 9. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 9 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. If the parties are not present at the time of inspection and hearing despite notice, the authority will proceed with the matter in their absence.

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

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.)