

01.02.2023
Court No. 19
Item no.05
CP

W.P.A. No. 8221 of 2022

Gita Ghosh & ors.

Vs.

The State of West Bengal & Ors.

Mr. Sabyasachi Mukhopadhyay

Ms. Koushikee Banerjee

...for the petitioners.

Mr. Manas Kundu

Mr. Debabrata Mandal

....for the State.

Mrs. Shohini Chakrabarty

Ms. Prajaaini Das

...for the respondent nos. 4 to 6.

The issue involved in the writ petition is whether the respondent nos. 4 to 6 had constructed a new structure on the existing dwelling house under the garb of repair. The Secretary of the Ramnagar-II Gram Panchayat has filed a report through the Block Development Officer which states that some repairing work had been done. Copies of the same be served upon the learned advocates for the respective parties.

Rule 19(2) of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004 provides that permission from the gram panchayat shall not be necessary for repair of an existing structure or building, unless there is a structural change or an extension of the covered area or the repair includes addition of a projection beyond the existing structure or building at the ground level or the upper level.

It is an admitted position that both the parties have been enjoying the dwelling house since long and the dwelling house had been constructed before the panchayat act had come into force.

Thus, the only issue to be decided will be whether the construction work which was carried out by the respondent nos. 4 to 6 was exempted in terms of Rule 19(2) of the West Bengal Panchayat (Gram Panchayat) Administration Rules, 2004.

Under such circumstances, without going into the merits of the claim of the petitioner, the writ petition is disposed of with a direction upon the Ramnagar-II Gram Panchayat to dispose of the representation of the petitioners being Annexure P-3 at page 37 of the writ petition.

Parties shall be heard. An inspection shall precede such hearing.

A reasoned order shall be passed and communicated to the parties.

Needless to mention, the authorities shall be at liberty to act and proceed in accordance with law on the basis of what transpires at the inspection and during hearing.

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

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 a server copy of this order.

(Shampa Sarkar, J.)