

19.01.2023
Sl. No.838(ML)
srm

W.P.A. No. 8236 of 2022

Smt. Satyabati Dey & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Jyoti Prakash Chatterjee

....for the Petitioners.

Mr. Naba Kumar Das,
Mr. Subhabrata Das

...for the State-respondents.

Mr. Atanu Biswas

...for the Respondent No.7.

Affidavit-of-service is taken on record. Despite service none appears on behalf of the respondent Nos.8 to 18.

As this Court is not inclined to pass mandatory directions as prayed for, but is relegating the matter before the competent authority, the writ petition is taken up in their absence.

The petitioners allege that the respondent Nos.8 to 14 have raised an unauthorised construction on Plot No.2376 pertaining to Khatian No.1060 of mouza Balia, District-Purba Bardhaman without obtaining permission from the respondent No.7.

The learned Advocate for the respondent No.7 submits that a preliminary inspection of the records available at the office of the Anukhal Gram Panchayat, District-Purba Bardhaman, revealed that the contention of the petitioners may be correct. However, due to pendency of the writ petition, no steps have yet been taken by the said authority for further enquiry into the matter.

The police report filed by the State-respondents is taken on record. It appears that there has been a long standing dispute between the parties and prosecutions had been filed by the police authorities in order to prevent breach of peace.

The petitioners filed a representation through their learned Advocate on April 1, 2022, which is annexure P-7 at page 40 of the writ petition.

As such, the writ petition is disposed of with a direction upon the Anukhal Gram Panchayat, District-Purba Bardhaman, to dispose of the representation of the petitioners dated April 11, 2022 being annexure P-74 to the writ petition, in accordance with law. While doing so, the gram panchayat 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 Nos.8 to 14, with 48 hours advance notice to the petitioners and the respondent Nos.8 to 14.

- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioners as also the respondent Nos.8 to 14.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission 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 claim of the petitioners and the issues raised shall be decided by the competent authority of the Anukhal Gram Panchayat, District-Purba Bardhaman, in accordance with law.

The question of title, possession, encroachment, etc. shall not be gone into.

A copy of the writ petition along with a server copy of this order be served upon the Pradhan, Anukhal Gram Panchayat, District-Purba Bardhaman.

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.)