

28.02.2023
Court No. 19
Item No.02
CP

W.P.A. No. 8276 of 2022

Kallol Pradhan & anr.

Vs.

The State of West Bengal & Ors.

Mr. Soumik Ganguli
Ms. Chandana Chakraborty
....for the petitioners.

Ms. Sipra Majumdar
Ms. Sangeeta Roy
....for the State.

Mr. Anirban Chakrobarty
Ms. Soma Chowdhury
...for the respondent nos. 7 & 8.

This writ petition is not maintainable in its present form.

It is the contention of the petitioners that the respondent nos. 7 and 8 have forcefully entered into the land of the petitioners during the pendency of an execution case and started construction of a house under the Pradhan Mantri Awas Yojana Scheme. Specific contention has been made that the land belongs to the petitioners and such interest of the petitioners had been upheld by a civil court. Thus, the petitioners seek a direction upon the concerned gram panchayat to adjudicate the above issue.

The West Bengal Panchayat Act, 1973 and Section 23 is not applicable if the construction is

made under any housing scheme for the poor. The Pradhan Mantri Aawas Yojana is one of such schemes. Under such circumstances, the reliefs prayed for in the writ petition cannot be granted.

The petitioners also contended that such construction can only be made according to a model plan, sketch or a lay out plan given by the authority in terms of the provisions of the PMAY (G) Scheme. Further contention of the petitioners is that unless the persons raising such construction have a right, title and interest in respect of such land on which the construction is being made, benefits of the said scheme shall not be given.

Learned advocate for the respondent nos. 7 and 8 submits that the land has been in the possession of the said respondents for the last 25 years and they have been possessing the same by paying property tax. An application for setting aside the ex parte decree is also pending before the appropriate civil court.

Under such circumstances, the writ petition is disposed of granting liberty to the petitioners to file a detailed representation before the Block Development Officer Kamarda who is the nodal officer.

If such representation is filed, the same shall be disposed of in accordance with law, upon hearing the petitioners as also the respondent nos. 7 and 8.

As the dispute with regard to title is still *sub judice*, the allegation of the petitioners that the construction has been made on the land of the petitioners cannot be decided until the civil court finally adjudicates the matter. However, the issue as to whether the construction was made in accordance with the terms and conditions of the PMAY(G) Scheme and as per the sketch/lay out plan or model drawing given by the authority, shall be inspected and looked into and determined.

A reasoned order shall be passed and communicated after giving an opportunity of hearing to the parties. Consequential steps will be taken to ensure that the construction is not contrary to the sketch map or lay out plan.

The entire exercise shall be completed within a period of three months from the date of the receipt of the representation.

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.)