

S/L 497
30.01.2023
Court. No. 19
sn

W.P.A. 8583 of 2022

Dilip Kumar Prajapati & Anr.
VS
The State of West Bengal & Ors.

Mr. Sanjit Seth

...for the Petitioner.

Ms.Sudipa Roy
Ms. Rupsha Chakraborty

...for the State.

Ms. Mekhla Sinha

..for the respdts.2-4

Affidavit-of-service filed in Court today, be kept with the record.

Despite service, none appears on behalf of the respondent nos.9 to 14. This Court is not passing any mandatory orders in terms of the prayers made in the writ petition, but is relegating the matter before the authority empowered by law to decide the allegation of unauthorized construction. Thus, the matter is taken up in the absence of the said respondents.

Without going into the merits of the allegation of unauthorized construction against the respondent nos. 9 to 14 on LR dag no. 2366 of mouza Sankrail, this writ petition is disposed of with liberty to the petitioners to approach the appropriate permission granting authority in accordance with law. If such representation is filed, the same shall be disposed of by adhering the following procedure.

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos.9 to 14. An advance notice of

the inspection shall be served upon the petitioners and the respondent nos.9 to 14 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.

- b) 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 such interim measures by stopping such construction.
- c) The report of such inspection shall be prepared along with a sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties. The question of right, title, possession and boundary disputes, shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioners and the respondent nos.9 to 14. 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 accordance with law.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently, upon hearing the parties.

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