

April 26, 2023
Sl. No.23
Court No.19
s.biswas

WPA 9018 of 2023

Sk. Nur Mahammad @ Nur Mahammad
vs.

The State of West Bengal and others

Mr. Md. K. Basar Bulbul,
Mr. Kamal Zahiruzzaman, Advocates

... for the petitioner

Mr. Narayan Chandra Bhattacharjee,
Mr. Mirza Kamruddin, Advocates

... for the State

Affidavit of service filed by the petitioner is taken on record.

The track consignment report indicates that service upon the respondent Nos.8 to 10 had come back with endorsement 'Refused'.

The petitioner alleges that the respondent Nos.8 to 10 had raised a construction on L.R. Plot No.343 of Mouza-Kharsarai, without any permission from the panchayat authorities.

The petitioner approached the Begumpur Gram Panchayat by filing a complaint on 13th March, 2023, which is annexed as P/2 at page 17 of the petition. The said representation is yet to be disposed of.

Without going into the merits of the allegations of the petitioner, the writ petition is disposed of with a direction upon the Begumpur Gram Panchayat to dispose of the petitioner's representation in accordance with law.

While doing so, the following procedure shall be adopted:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent Nos.8 to 10. An advance notice of the inspection shall be served upon the petitioner and the respondent Nos.8 to 10 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 any sanction 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. The question of right, title, interest, possession and boundary dispute etc. shall not be decided by the panchayat authorities. The only issue to be decided would be whether the alleged construction was

without any sanction or in deviation from such sanction and/or contrary to the Rules.

- e) A hearing shall be given to the petitioner and the respondent Nos.8 to 10. The parties must also be allowed to furnish their written objection/version to the 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, 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 allegation levelled against the respondents.

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 server copy of this order.

(Shampa Sarkar, J.)

