

03.05.2023
Sl. No.13(DL)
srm

W.P.A. No. 9128 of 2023

Sri Bijay Krishna Das

Versus

The State of West Bengal & Ors.

Mr. Abil Lal Chakravorti,
Mr. Sourav Guchhait

....for the Petitioner.

Mr. Jahar Lal De,
Mr. Rudranil De

...for the State-respondents.

Mr. Kaushik Sarkar

...for the Respondent Nos.8 & 9.

The writ petition has been filed by a person who allegedly claims to be a *patta* holder in respect of the land in which the respondent Nos.8 and 9 had constructed a house.

On the last occasion, opportunity was given to the respondent Nos.8 and 9 to prove the legality of such construction.

Today, records have been produced to show that the land, that is, Plot No.494/554 of mouza Mahanagar, on which the construction has been made, was permitted by the competent authorities under the PMAY(G). The

respondent No.9 was allowed to make such construction on the said plot of land being Plot No.494/554 under mouza Mahanagar. The said respondent contends that no other construction had been raised by him.

As per Rule 19 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004, constructions under any housing scheme, for upliftment of the poor, are not subject to permission of the panchayat authorities under Section 23 of the West Bengal Panchayat Act, 1973. Record of Rights have been produced which indicate that the said land, that is, plot No. 494/554 has been recorded in the name of Bhuban Gharai. The respondent Nos.8 and 9 are the sons of late Bhuban Gharai.

Thus, the contention of the petitioner that the construction was unauthorised and without any permission from the panchayat authorities is incorrect.

However, if there are any constructions on Plot No.494/645 either by the respondent Nos.8 and 9 or by any person, the petitioner is at liberty to proceed in accordance with law by filing appropriate complaint before the panchayat authorities, but the construction of the respondent Nos.8 and 9 on Plot No.494/554 is outside the jurisdiction of the panchayat authorities. If the petitioner contends that the alleged construction was raised on a plot

different from the one in respect of which the benefit under PMAY(G) had been granted, the petitioner can also approach the Block Development Officer for necessary action.

The other contention that the record of rights were wrongly prepared by the authorities, cannot be decided either by this Court or by the panchayat authorities. The petitioner is at liberty to approach the appropriate authority for correction of the record of rights in accordance with law.

Secondly, right, title and interest of the petitioner in respect of the land in question is also *sub judice* in a second appeal pending before this Court. The petitioner can approach the said court for necessary orders.

The writ petition is disposed of granting liberty to the petitioner to approach the appropriate authority and the competent court, in accordance with law.

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.)