

31.01.2023
Court No. 19
Item 522
CP

WPA No. 8952 of 2022

Amita Adhikary
Vs.
The State of West Bengal & Ors.

Mr. Raghunath Chakraborty
Md. Apzal Ansari

...for the petitioner.

Mr. Nilanjan Bhattacharjee
Mr. A. Chatterjee
Mr. Saikat Dey

....for the respondent no. 6.

The writ petition is disposed of with a direction upon the District Engineer, Howrah Zilla Parishad to treat the writ petition as a representation and dispose of the same in accordance with law.

The petitioner alleges that the respondent no. 6 is raising a construction over L.R. Plot No. 4905 of Mouza – Panchla, without leaving adequate side space. The allegation is of violation of the building rules.

Mr. Bhattacharjee, learned advocate for the respondent no. 6, produces a copy of the sanctioned plan granted by the District Engineer, Howrah Zilla Parishad on July 8, 2022.

The only issue that can be decided by the authorities in this case, would be whether the construction by the respondent no. 6 is strictly in

accordance with the plan sanctioned by the zilla parishad or not. While deciding such issue, 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 no. 6. An advance notice of inspection shall be served upon the petitioner and the respondent no. 6 and upon all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in their respective premises.
- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was in deviation of the plan and was continuing, the authorities may take such interim measures by stopping such construction.
- c) The 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.
- e) A hearing shall be given to the petitioner and the respondent no. 6. 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. The issue whether at the relevant point of time the panchayat laws were applicable or not, must also be looked into.

- 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 West Bengal Panchayat Act.

The court has not gone into the merits of the claims.

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

The only question to be decided by the authorities would be whether the alleged construction is being raised in violation of the plan and the building rules.

A copy of the writ petition along with a server copy of this order be served upon the concerned authority for necessary compliance of this order.

The District Engineer, Howrah Zilla Parishad shall also advise the respondent no. 6 as to what preventive measures should be taken so that damage to the surrounding existing structures can be avoided.

This order shall not, in any way, prejudice the pending civil suit.

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.)