

ML 35
01.05.2023
Court. No. 19
GB

WPA 9328 of 2023

Md. Gulab
Vs
The State of West Bengal & Ors.

*Mr. Farooque Ali,
Mr. Afsar Ali,
Mr. Faizar Md. Zafar*

...for the Petitioner.

Ms. Mekhla Sinha

...for the Howrah Zilla Parishad.

*Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
Mr. K. Bhattacharya,
Ms. Sinjini Chakraborty*

...for the Respondent No.8.

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

The petitioner alleges that the Howrah Zilla Parishad failed and neglected to take steps despite a complaint having been filed through his learned advocate on April 11, 2023. The petitioner submits that the respondent nos.8 and 9 constructed a four storeyed structure on R.S. Dag No.2017 of Mouza-Bankra, without any permission from the Howrah Zilla Parishad.

Mr. Mukherjee, learned advocate for the respondent no.8 submits that sanction had been duly granted by the Zilla Parishad and the construction had been completed long time ago. The writ petition is a counter-blast to WPA 408 of 2023 filed by the respondent nos.8 and 9, alleging unauthorized construction by the petitioner. Mr. Mukherjee further

submits that even if there are minor deviations, the same could be regularized by the Howrah Zilla Parishad.

This Court is not inclined to enter into the disputed questions which have been raised. The competent authority of the Howrah Zilla Parishad, will act and proceed in accordance with law and steps shall be taken thereafter, if structures are found to be illegal.

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 and 9. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.8 and 9 and on all other interested parties including the residents of the building. 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/or permission 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 title, possession and boundary dispute etc. shall not be decided by the authorities. The questions to be decided would be whether the construction had been made without any permission or in violation of the building rules.
- e) A hearing shall be given to the petitioner and the respondent nos.8 and 9. 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 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.

The entire exercise shall be completed within a period of three months from the date of receipt of petitioner's 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.)