

Court No. 19

WPA 9413 of 2023

08.05.2023

(AD 37)

(S. Banerjee)

Dinobondhu Naskar & Ors.

Vs.

The State of West Bengal & Ors.

Md. Hasanuz Zaman
Mr. Shahriyar Karim Akhen
Md. Zeeshanuz Zaman

... for the petitioners

Despite service none appears on behalf of the respondent nos. 7 to 10.

As the court is not inclined to pass any mandatory order but deems to refer the dispute to the permission-granting authority, the writ petition is taken up in the absence of the respondent nos. 8 to 10.

The contention of the petitioner is that despite having raised serious objections with regard to the construction on plot no. 213 corresponding to LR Khatian Nos. 149, 427, 544, 594 and 1230 at Mouza – Jelerhat, the panchayat authorities of Belegachi Gram Panchayat did not taken any steps. According to the petitioner, the said construction is without any permission from the Gram Panchayat. Further allegation of the petitioner is that the land continues to be classified as ‘Sali’ and without conversion of the

same to 'Bastu', construction could not have been raised.

The claim of the petitioner of being the absolute owner in respect of the plot in question, cannot be decided by this court or by the Panchayat authorities.

However, the allegations that the construction is without any conversion and without any sanction from the Gram Panchayat, has to be decided by the Gram Panchayat, i.e., the permission-granting authority, in accordance with law. While deciding the issue, the following procedure shall have to be adopted.

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondents. An advance notice of the inspection shall be served upon the petitioner and the respondents and/or 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 in deviation of the building rules 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 panchayat authorities. The only issue to be decided would be whether the alleged construction of the respondent was in terms of a sanctioned plan and/or without any plan and permission.
- e) A hearing shall be given to the petitioner and the respondents. 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.

Since no affidavit has been called for, all the allegations made in the writ application shall be deemed to have been not admitted.

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.)