

S/L 1
31.1.2023
Court. No. 19
sn

W.P.A. 9203 of 2022

Murari Charan Purkait
VS
The State of West Bengal & Ors.

Mr. Saunak Bhattacharyya
Mr. Saunak Mondal

... for the Petitioner.

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

Despite service, none appears on behalf of the respondent nos.5 to 8. As this Court is not passing any mandatory orders in terms of the prayers made in the writ petition, but is relegating the entire matter before the authority competent to adjudicate the issue of unauthorized construction, the writ petition is taken up and disposed of in the absence of the said respondents.

The petitioner alleges that a construction, without any permission is being raised by the respondent nos. 5 to 8, on a 'Sali' land.

The petitioner relies on the answer given by the Pradhan under the Right to Information Act, 2005 indicating that no permission had been granted for construction of any building on plot nos.600/952 corresponding to LR khatian no. 318 of mouza Gazipur.

This writ petition is disposed of with a direction upon the Shikharbali-II Gram Panchayat to treat the writ petition as a representation and dispose of the same 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 on the respondent nos.5 to 8. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.5 to 8 and 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 conversion of the land and without permission and had been 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 nos. 5 to 8. 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.
- 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 court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently, upon hearing the parties.

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

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

A copy of the writ petition along with a server copy of this order be served upon the Shikharbali-II Gram Panchayat.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)