

Item No.14
08.05.2023
Court. No. 19
GB

WPA 10227 of 2023

Ajoy Maity
Vs
The State of West Bengal & Ors.

*Ms. Debanwita Pranantik,
Mr. Anindya Sankar Das,
Ms. Sanchari Ray Sardar*

...for the Petitioner.

*Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata*

...for the State.

*Mr. Tanmoy Mukherjee,
Mr. Kamal Mishra,
Mr. Subhadeep Maitra*

...for the Respondent No.2.

*Mr. Sumanta Chakraborty,
Mr. Santu Das Adhikari*

...for the Respondent No.4.

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

The petitioner has challenged the communication made by the Kajlagarh Gram Panchayat dated February 27, 2023 to the Sub-Divisional Officer Egra, on the ground that some observations were contrary to the actual facts.

The petitioner submits that the sanction plan and the written permission both indicate that sanction was granted by the Kajlagarh Gram Panchayat for construction on Plot Nos.1087 and 1090.

The gram panchayat was of the opinion that the construction on Plot No.1087 had been permitted by a resolution adopted by the gram panchayat. Whereas, the plan indicated that construction was permitted both on plot Nos. 1087 and 1090.

It also appears that the gram panchayat found that the construction on Plot No.1090 could not have been approved before the conversion of the land from 'Dhosa' to 'Bastu'. The sanction was granted some time in 2016, but the conversion had been granted in 2017.

These aspects were brought to the notice of the Sub-Divisional Officer for further steps to be taken in terms of Section 23(5) of the West Bengal Panchayat Act, 1973. It is also evident from the records that all these steps which were taken by the panchayat authorities, upto the stage of communication of the entire matter to the Sub-Divisional Officer for necessary action, were on the basis of the orders passed by coordinate Benches.

The learned advocate for the respondent no.4 submits that the said respondent, from the very beginning, had opposed to the constructions on Plot Nos. 1087 and 1090 of Mouza-Kyaptabari.

The findings of the panchayat authorities and the subsequent revelation of the plan in question, has now put the dispute with regard to the construction on Plot No.1087, to rest. There is no controversy with regard to the sanction in respect of Plot No.1087.

The controversy has now narrowed down to the issue as to whether the construction on Plot No.1090, had been permitted by the panchayat authorities or not and if such permission was given, whether the same was contrary to the provisions of Rule 26 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004. The Sub-Divisional

Officer has already been apprised of the entire facts and the records have been submitted before him. It is now for the said authority to take steps in accordance with Section 23(5) of the West Bengal Panchayat Act, 1973 based on the findings of the gram panchayat. The submissions and documents to be filed by the respective parties before the said authority, shall also be taken into consideration as also all the documents available in the panchayat office, the resolution book and the payment receipts/fees deposit receipts etc.

The writ petition is disposed of without any observations on the merits of the factual dispute which have arisen. The Sub-Divisional Officer shall look into the matter, hear the parties and take necessary steps in accordance with law. A reasoned order shall be passed and communicated to all.

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

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.)