

S/L 555
1.2.2023
Court. No. 19
sn

W.P.A. 9743 of 2022

Ranajit Kumar Paul
VS
The State of West Bengal & Ors.

Mr. Jyoti Prakash Chatterjee

..for the petitioner

Ms. Sima Adhikary

Ms. Sanjukta Samanta

... for the State.

Mr. Atanu Biswas

Mr. Bikram Basak

..for the respdts.6&7

Affidavit-of-service filed in Court today, be kept with the record. The supplementary affidavit and the report of the Block Development Officer are taken on record.

The petitioner alleges that the respondent nos. 6&7 have raised an unauthorized construction on plot no. 313 of mouza Sijna within the jurisdiction of Bhagra Mulgram Gram Panchayat.

The supplementary affidavit has been filed annexing the reply of the Pradhan to the query made by the petitioner under the Right to Information Act. It has been stated that no permission had been granted for construction of any building on plot no. 312.

Learned advocate for the petitioner submits that the petitioner had inadvertently mentioned plot no. 313 in the representation as also in the writ petition, although, the correct plot no. would be 312 and

information under the Right to Information Act, 2005 had been sought in respect of plot No.312.

The Block Development Officer, Monteswar Development Block has filed a report. It appears that the Pradhan had already asked the respondent nos. 6&7, to stop the construction work.

Learned advocate for the respondent nos. 6&7 submits that no order should be passed based on erroneous pleadings.

The court is in agreement with the respondent nos. 6&7. There is a mis-description of the plot number in the writ petition as also in the representation.

However, the petitioner was provided with a reply with regard to the construction on plot no. 312 and there is also a report from the authorities that the respondent Nos.6 and 7 were asked to stop construction.

The writ petition is disposed of with liberty to the petitioner to approach the concerned Gram Panchayat in accordance with law, with specific objections with regard to the alleged construction. If such representation is filed, the same shall be disposed of 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 the respondent nos.6& 7. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.6&7 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 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. The questions of right, title, possession and boundary disputes, shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioner and the respondent nos.6& 7. 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 Bhagra Mulgram Gram Panchayat.

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

(Shampa Sarkar, J.)