

01.02.2023
Sl. No.556(ML)
srm

W.P.A. No. 9763 of 2022

Dr. Putul Das

Versus

The State of West Bengal & Ors.

Mr. Subrata Santra

....for the Petitioner.

Mr. Rajarshi Basu,
Mr. Parikshit Goswami

...for the State-respondents.

Mr. Uttam Kumar Bhattacharya

...for the Respondent No.9.

Affidavit-of-service is taken on record.

The petitioner alleges that the construction of the respondent No.8 is beyond the sanctioned plan. The construction is allegedly being raised on a part of Plot No.283 of mouza Gopalpur, District-Paschim Medinipur.

Mr. Bhattacharya, learned Advocate appearing on behalf of the respondent No.8 submits that the construction was in accordance with the sanctioned plan.

The only issue raised by the petitioner is that the construction by the respondent No.8 has been made in violation of the building rules and beyond the plan. Adequate front space and side space has not been

maintained. The permission and sanction granted by the Kankaboti Gram Panchayat has been violated.

Under such circumstances, the writ petition is disposed of with a direction upon the Kankaboti Gram Panchayat, District-Paschim Medinipur, to treat the writ petition as the representation of the petitioner and dispose of the same, in accordance with law. While doing so, the gram panchayat shall adhere to the following procedure:-

- a) Inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent No.8, with 48 hours advance notice to the petitioner and the respondent No.8.
- b) Report of the inspection shall be prepared along with a sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioner as also the respondent No.8.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the constructions were without permission and had been continuing, the authorities may take interim measures by stopping such construction.

- e) A hearing shall be given to all the parties. 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.
- f) A reasoned order shall be passed and communicated to the parties in respect of the alleged construction. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

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

The Court has not gone into the merits of the claims and counter-claims of the parties and the issues raised shall be decided by the competent authority.

The question of title, possession, encroachment, etc. shall not be gone into.

A copy of the writ petition along with a server copy of this order be served upon the Secretary, Kankaboti Gram Panchayat, District-Paschim Medinipur.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of
this order.

(Shampa Sarkar, J.)