

S/L 3
19.1.2023
Court. No. 19
sn

W.P.A. 9848 of 2022

Amiya Kumar Rakshit
VS
The State of West Bengal & Ors.

Mr. Balai Lal Sahoo
Mr. Aswini Kumar Bera
Mr. Chandan Chakraborty

...for the Petitioner.

Ms. Manjuli Chowdhury
Ms. Mekhla Sinha

..for the zilla parishad

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

Although the respondent nos. 9 to 11 appeared before the authority and was present during inspection, but they have not appeared before this Court. However, the records reveal that they have been served.

As this Court is not inclined to pass any mandatory orders in terms of the prayers made in the writ petition, but is relegating the entire matter before the competent authority of the Howrah Zilla Parishad to decide the allegation of unauthorized construction, the writ petition is taken up in the absence of the said respondents.

As per the report of the District Engineer and the inspection held by the Assistant Engineer of the Howrah Zilla Parishad, it appears that some construction was made on plot no.321 of mouza Kamranga, J.L. No. 34, without any sanction. The respondent nos. 9 to 11 submitted that the house belonged to their mother, Smt. Joyanti Bhodak. The

deed of settlement in favour of their mother was also produced before the authority.

Taking into account such preliminary finding, this writ petition is disposed of with a direction upon the competent authority of the Howrah Zilla Parishad to act and proceed in accordance with law on the basis of the representation filed by the petitioner, by adhering to the following procedure.

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner, the respondent nos.9 to 11 their mother and all other interested parties. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.9 to 11 and 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 had been continuing, the competent authority of the Howrah Zilla Parishad 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. Right, title, possession of the parties and boundary

dispute, shall not be decided by the competent authority of the Howrah Zilla Parishad.

- e) A hearing shall be given to the petitioner and the respondent nos.9 to 11. 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 of the Howrah Zilla Parishad. 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 accordance with law.

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.

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

(Shampa Sarkar, J.)