

17.05.2023
Court No. 19
Item 13
CP

W.P.A. No. 10386 of 2023

Shambhu Ponda

Versus

The State of West Bengal & Ors.

Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. K. R. Ahmed
Mr. Rudranil Das

....for the Petitioner.

Mr. Malay Singh,
Syed Nasirul Hossain

...for the State-respondents.

Mr. Anirban Mitra,
Mr. Amit Halder,

...for the Respondent Nos.5, 6 & 7.

The petitioner alleges that the respondent nos. 5 to 7 have raised a construction of a G+1 storeyed building on Plot No. 1417 of Mouza – Totanala without any sanction from the authority. The petitioner claims to be a co-sharer in respect of the said plot of land in question. Title Suit No. 62 of 2022 was filed by the petitioner for a declaration and permanent injunction. It was prayed that the deed of purchase of the respondent nos. 5 to 7 be declared void ab initio.

It is alleged that during the pendency of the injunction application, the respondent nos. 5 to 7 had started the construction.

Mr. Mitra, learned advocate appearing for the respondent nos. 5 to 7, denies the allegation and submits that the issue with regard to right, title and interest must be decided in the civil suit. That the plaint of the civil suit did not disclose any allegation of unauthorized construction. It is the specific contention of the said respondents that Plot No. 1417 was free from any construction whatsoever.

Heard the rival contentions of the parties. The disputed questions of fact cannot be decided in this proceeding.

However, the panchayat authorities shall ensure that no construction is raised on Plot No. 1471 by any party, without appropriate sanction and/or permission from the competent authority.

Accordingly, the writ petition is disposed of.

It is made clear that if any violation of the panchayat laws are detected in future, steps shall be taken by the panchayat authorities, strictly in accordance with law.

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.

Parties are also directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)