

05.04.2023
Sl. No.48(ML)
srm

W.P.A. No. 9879 of 2022
Subir Kumar Chattopadhyay & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Nayaab Mulla,
Mr. M.A. Samad
....for the Petitioners.

Mr. Tapas Kumar Adhikari,
Ms. Nibedita Barui
...for the State-respondents.

Mr. Asit Kumar De,
Mr. Debranjana Das
...for the Respondent No.6.

The petitioners allege that the respondent No.6, who is a '*shebait*' along with the petitioners, had raised a construction on LR Plot No.790 of mouza Chandpur, without any permission from the panchayat authorities.

Record of rights have been relied upon in order to show that the land had been dedicated to Laxmi Janardan Jew Thakur and is a '*debutter*' property.

The learned Advocate for the State-respondents has produced a brief report prepared by the Block Development Officer, Daspur-I. The Pradhan of Basudebpur Gram Panchayat intimated the Block

Development Officer that no permission for the construction had been given.

The learned Advocate for the respondent No.6 submits that there was a pre-existing structure, which was repaired. It is submitted that sometime in 2009 fees for house construction had been deposited in Form 5 and an application in Form 4 had also been submitted. Those documents have been submitted before the Court and those are taken on record.

There appears to be a discrepancy in the contention of the present Pradhan of Basudebpur Gram Panchayat and in the documents submitted by the respondent No.6. Thus, the Court is unable to ascertain whether the respondent No.6 had constructed the house upon obtaining permission or not. Such issue has to be decided by the permission granting authority.

The permission granting authority, that is, Basudebpur Gram Panchayat shall treat the writ petition as the representation of the petitioners and dispose of the same in accordance with law.

The issue to be decided would be whether the construction of the respondent No.6 was raised with permission, or whether permission had not been granted

despite the respondent No.6 having filed the application in the proper form.

The question of deemed sanction will also be decided. An inspection shall be made in the presence of all the parties. A report shall be prepared and supplied to all. A hearing shall be given to all the parties. A reasoned order shall be passed and communicated to the parties. If unauthorised constructions are found, steps shall be taken 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 three 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, independently.

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, Basudebpur 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.)