

01.02.2023
Court No. 19
Item 566
CP

W.P.A. No. 10021 of 2022

Sri Brajendra Nath Jana

Vs.

The State of West Bengal & Ors.

Mr. Soumik Ganguli

Mr. Sayan Roy

Ms. C. Chakraborty

...for the petitioner.

Mr. Rajarshi Basu

Mr. K. M. Hossain

...for the State.

Mr. Soumen Kr. Dutta

Mr. Sabyasachi Bhattacharjee

....for the respondent nos. 7 to 11.

Affidavit of service is taken on record.

The writ petition has been filed alleging that the respondent nos. 7 to 11 have raised a concrete building on Plot No. 338 corresponding to Khatian No. 452/1. It appears that a civil suit is pending in respect of the property in question and there is an order of injunction.

The petitioner submits that the classification of the land continues to be 'Jal'.

Mr. Dutta, learned advocate for the respondent nos. 7 to 11 denies such contention and submits that the civil court would be the appropriate forum for adjudication of the issues raised. The property in question is also the subject matter of a civil suit.

Some photographs have been handed over, which indicate that a temporary bamboo structure had been erected to run an anganwadi centre. No brick built construction has been made. Such contention is denied by the petitioner.

The dispute which has arisen in this case is whether the alleged construction is a brick built concrete construction or a bamboo structure.

Under Rule 19 of the of the West Bengal Panchayat (Gram Panchayat) Administration Rules, 2004, temporary structures of mud or bamboo are exempted from the requirement for sanction/permission.

Under such circumstances, the writ petition is disposed of with a direction upon the concerned gram panchayat to cause an inspection of the plot in question, in order to ascertain the nature and character of the construction. A report shall be prepared and supplied to the parties. The parties shall respond to such report and a hearing shall be given.

A reasoned order shall be passed and communicated to the parties.

If the contention of the respondent nos. 7 to 11 is found to be correct, no further steps shall be taken with regard to the said structure. If the contention of the petitioner is found to be correct, steps shall be

taken in accordance with law upon compliance of Section 23(5) of the West Bengal Panchayat Act, 1973.

The entire exercise shall be completed within a period of two months from the 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.)