

Item No.12
12.05.2023
Court. No. 19
GB

WPA 10641 of 2023

Gouranga Maity
Vs
The State of West Bengal & Ors.

*Mrs. Rama Haldar,
Mrs. Diya Dutta*

...for the Petitioner.

*Mr. Sushovan Sengupta,
Mr. Subir Pal*

...for the State.

*Mr. Uttam Kumar Bhattacharya,
Mr. Kaustav Maitra*

...for the Respondent No.9.

*Mr. Ziaul Haque,
Mr. Arko Bhattacharyya*

...for the Respondent No.10.

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

The petitioner submits that the respondent no.9 had constructed a two storeyed building without any sanction and the respondent no.10 constructed a boundary wall without leaving mandatory spaces between the said wall and the house of the petitioner. The petitioner claims to be a contiguous owner in respect of the plots of land over which such constructions have been raised by the respondent nos.9 and 10.

The petitioner is granted liberty to approach the concerned gram panchayat with his grievances in respect of each of the constructions by filing individual representations. If such representations are filed indicating the alleged illegality in the constructions, the same shall be disposed of in accordance with law.

While doing so, the following procedure shall be adopted:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the person against whom allegations have been made. An advance notice of the inspection shall be served upon the 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 or in deviation of such permission and was continuing, the authorities may take interim measures by stopping such construction.
- c) A 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. The question of title, possession and boundary dispute etc. shall not be decided by the panchayat authorities. The questions to be decided by the panchayat authorities would be whether the construction has been made without any permission or in violation of the building rules and without maintaining the minimum space.
- e) A hearing shall be given to the petitioner and the respondent nos.9 and 10. The parties must also be

allowed to furnish their written objection/version to the report and adduce oral and documentary evidence in support of their contentions before the competent authority. 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.

It goes without saying that if the authority finally comes to a conclusion that there has been unauthorized construction and the same should be either rectified or demolished, steps shall be taken for demolition thereof, strictly in accordance with law.

The court has not gone into the merits of the claims of the petitioners and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of four 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.)