

May 15, 2023
Sl. No.20
Court No.19
s.biswas

WPA 10696 of 2023

Lubin Tudu

vs.

The State of West Bengal and others

Ms. Afrin Nahar Mondal

... for the petitioner

Mr. Naba Kumar Das

Mr. Sutanu Chakraborty

... for the State

Affidavit of service filed by the petitioner is taken on record.

Despite service, none appears on behalf of the respondent nos.5 and 6.

As the Court is not inclined to pass any mandatory direction as prayed for, but deems it fit to relegate the matter to the permission granting authority for determination of the allegation of unauthorized construction, the writ petition is taken up in the absence of the respondent nos.5 and 6.

The allegation of the petitioner is that the respondent no.6 had started raising a construction on L.R. Plot no.935 of Mouza Kamria, which had been recorded as a 'Doba', Such construction was neither with permission, nor upon obtaining conversion.

Learned advocate for the State has handed over some documents supplied by the Block Development Officer, Polba-Dadpur Development Block, which indicate that the panchayat authorities had not granted any permission for such construction.

The petitioner has already approached the Pradhan, Satithan Gram Panchayat, by filing a representation dated February 28, 2023, which is annexed as Annexure P/2 at page 15 of the writ petition.

The writ petition is disposed of with direction upon the Satithan Gram Panchayat, to take necessary steps and dispose of the said representation 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 respondent no.6. An advance notice of the inspection shall be served upon the petitioner and the respondent no.6 and on all other 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) A report of such inspection with the details shall be prepared along with a sketch map, indicating the extent and nature of unauthorized construction, if any.
- c) Such report shall be handed over to the parties. The question of right, title, interest, possession and boundary dispute etc. shall

not be decided by the panchayat authorities.

The only issue to be decided would be whether the construction was in accordance with law and upon obtaining proper permission.

- d) A hearing shall be given to the petitioner and the respondent no.6 and other concerned persons. 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.
- e) 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 23(5) of the West Bengal Panchayat Act, 1973.

Needless to mention, if any unauthorised construction is detected, necessary steps will be taken by the competent authority in accordance with law to demolish the structure.

The entire exercise shall be completed within a period of four months from the date of communication of the 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 server copy of this order.

(Shampa Sarkar, J.)