

12.05.2023
Court No. 19
Item 16
CP

WPA No. 10883 of 2023

Bimal Pramanik @ Bimalendu Pramanik
Vs
The State of West Bengal & Ors.

Mr. Ziaul Haque
... for the Petitioner.

Mr. Himadri Sikher Chakraborty
Mr. Parikshit Goswami
....for the State.

Mr. Sanjay Kr. Sarkar
...for the respondent no. 4.

The writ petition is disposed of with a direction upon the Kashinagar Gram Panchayat to consider and decide the issues raised in the representation dated April 10, 2023, in accordance with law.

The issue to be decided would be whether any construction had been made on Plot No. 3262 of Mouza – Uttar Kashinagar, without any permission and without conversion.

Mr. Sarkar, learned advocate for the respondent no. 4, denies the allegation of having raised any construction at Plot No. 3262 and submits that the said respondent has been residing on Plot No. 3998 which had been classified as ‘Dokanghar’ for the past 50 years, and, as such, the question of violation of the provisions of Section 23 of the West Bengal Panchayat Act, 1973 did not arise.

Mr. Sarkar's contention that the writ petition is premature and should not be entertained, is not pertinent for consideration at this stage as the court has not passed any orders allowing the prayers in the writ petition but has relegated the matter before the concerned gram panchayat for a decision.

While deciding the issue as to whether any construction had been made on Plot No. 3262 which is a bank by the side of a water body, 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. 4. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 4 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) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such 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.
- e) A hearing shall be given to the petitioner and the respondent no. 4. The parties must also be allowed to furnish their written objection/version to the said 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 terms of Section 23(5) of the West Bengal Panchayat Act.
- g) Needless to mention, the competent authority will demolish the structure, if any unauthorized construction is detected, after the entire process is over.

The court has not gone into the merits of the claims.

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

The disputes with regard to title, possession and boundary etc., shall not be decided by the panchayat authorities.

A copy of the writ petition along with a server copy of this order be served upon the concerned gram panchayat for necessary compliance 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.)