

18.05.2023
Court No. 19
Item 14
CP

W.P.A. No. 10937 of 2023
Azizul Molla
Versus
The State of West Bengal & Ors.

Md. Hasanuz Zaman
Mr. S. K. Akhan
Md. Zeeshanuz Zaman
....for the Petitioner.

Ms. Chama Mookherji
Ms. Sujata Ghosh
....for the State.

Affidavit of service is taken on record.

Despite service, none appears on behalf of the respondent nos. 7 to 9.

As this court is not inclined to pass any mandatory directions as prayed for, but deems it fit to relegate the matter to the permission granting authority, this writ petition is taken up in their absence.

The petitioner alleges that the respondent nos. 8 and 9 had raised a construction on L.R. Plot Nos. 580/625, 580/626, 580/627, 580/628, 580/629 & 580/630 of Mouza – Gocharan, without any conversion and permission from the Nabagram Gram Panchayat.

Without going into the merits of the allegations of the petitioner the writ petition is disposed of with a

direction upon the Nabagram Gram Panchayat to dispose of the representation of the petitioner being Annexure P-5 at page 32 of the writ petition, in accordance with law. While doing so, the authorities will follow the procedure stated hereinbelow:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos. 8 and 9. An advance notice of the inspection shall be served upon the petitioner and the respondent nos. 8 and 9 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 nos. 8 and 9. 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 only issue to be decided would be whether any construction had been raised either without conversion or in deviation of a plan and contrary to

the building rules. 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.

Parties are also directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)