

May 12, 2023
Sl. No.23
Court No.19
s.biswas

WPA 11243 of 2023

Kalyan Sadhukhan

vs.

The State of West Bengal and others

Mr. Keshab Chandra Das

Mr. Biplab Adak

... for the petitioner

Ms. Sipra Mazumdar

Ms. Sangeeta Roy

... for the State

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

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

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.7 to 9.

The petitioner submits that WP 26409(W) of
2014 was filed with the allegation that the
respondent no.9 had raised a construction on L.R.
Plot No.215 of Moza-Bhanderhati without any
permission from the panchayat authorities.

The writ petition was disposed of by a Co-
ordinate Bench, directing the panchayat authorities
to take steps in accordance with law.

The petitioner submits that despite an order
upon the panchayat authorities to decide the issue,

the authorities remained silent over a period of seven years.

In the absence of the panchayat authorities and also the respondent no.5, it is impossible to ascertain the factual allegation made by the petitioner.

Hence, the writ petition is disposed of with direction upon the Bhandarhati-I Gram Panchayat, to treat the writ petition as a representation and dispose of the same 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.9. An advance notice of the inspection shall be served upon the petitioner and the respondent no.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) 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.9 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.

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.)