

S/L 577
1.2.2023
Court. No. 19
sn

W.P.A. 10553 of 2022

Uttam Kumar Singh
VS
The State of West Bengal & Ors.

Mr. Afrin Nahar Mondal

...for the Petitioner.

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

Despite service, none appears on behalf of the respondent no.8. As this Court is not inclined to pass mandatory orders in terms of the prayers made in the writ petition, but is relegating the entire matter before the authority competent for adjudication of the issue of unauthorized construction, the writ petition is taken up and disposed of in the absence of the respondents including the respondent no.8.

The petitioner alleges that the respondent no.8 is a co-sharer and had started construction on L.R. Plot no. 699 within mouza Belmuri, without any permission or sanction from the Belmuri Gram Panchayat.

The petitioner submits that a representation was attempted to be filed in the panchayat office, which was refused. Thereafter, the petitioner submitted a representation before the concerned Block Development Officer. It is alleged that the respondent

no.8 had filed a partition suit but the said suit was withdrawn.

This writ petition is disposed of with liberty to the petitioner to approach the Belmuri Gram Panchayat in accordance with law specifically stating the objections with regard to the alleged construction of the respondent no.8. If such representation is filed 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 respondent no.8. An advance notice of the inspection shall be served upon the petitioner and the respondent no.8 and all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in their 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 had been continuing, the authorities may take such interim measures by stopping such construction.
- c) The 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 questions of right, title, possession and boundary disputes, shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioner and the respondent no.8. 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, 1973.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently, upon hearing the parties.

The entire exercise shall be completed within a period of four months from date of receipt of a copy of the representation.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

The learned advocate on record for the petitioner is directed to serve a copy of the writ petition along with a server copy of this order upon the Belmuri Gram Panchayat.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)