

17.05.2023
Sl. No.20(DL)
srm

W.P.A. No. 11521 of 2023

Kamal Midday

Versus

The State of West Bengal & Ors.

Mr. Pankaj Halder,
Mr. Sanatan Panja

....for the Petitioner.

Mr. Ansar Mondal,
Ms. Srilekha Bhattacharyya

...for the State-respondents.

Md. Bashamir

...for the Respondent Nos.10 & 11.

Despite service, none appears on behalf of the panchayat authorities. Affidavit-of-service is taken on record.

Learned Advocate for the respondent Nos.10 and 11 submits that the construction on Plot No.4565 of mouza Raidighi does not belong to the said respondents. According to the said learned Advocate, the respondent No.11 was given permission to construct on Dag No.4292 of mouza Raidighi. It is further submitted that plot No.4292 corresponds to LR Plot No.4565 and the construction has been made in accordance with the plan.

Documents with regard to such permission have been filed before the Court and it appears that the permission was given for construction on Dag No.4292 of mouza Raidighi sometime in 2008. The said respondents deny the allegation of unauthorised construction.

It also appears from a letter that a portion of LR Dag No.4565 was given to the respondent No.11 by way of *patta* and the respondent No.11 had prayed for rectification of the records.

Thus, the Court directs the Raidighi Gram Panchayat, South 24-Parganas, to dispose of the representation of the petitioner, which is at page 15 of the writ petition. The said representation was filed with the allegation that the constructions on Plot No.4565 of mouza Raidighi was without conversion and without sanction.

While doing so, the permission granting authority shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent Nos.10 and 11, with 48 hours advance notice to the petitioner and the respondent Nos.10 and 11.

- b) A report of the inspection shall be prepared along with the sketch map, indicating the extent of unauthorized construction, if any.
- c) Such report shall be handed over to the petitioner as also the respondent Nos.10 and 11.
- d) In case, it is found on preliminary inspection, that there may be reasons to believe that the construction was without permission and without conversion of land as also in violation of the building rules and had been continuing, the authorities may take interim measures by stopping such construction.
- e) A hearing shall be given to all the parties. 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.
- 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 the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

g) After the entire process is over and if the unauthorised construction is detected, the same shall be demolished in accordance with law.

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

The questions of right, title, interest, encroachment, etc. shall not be gone into.

The Court has not gone into the merits of the claims and counter-claims of the parties and the issues raised, shall be decided by the competent authority, independently.

A copy of the writ petition, along with a server copy of this order be served upon the Secretary, Raidighi Gram Panchayat, South 24-Parganas.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)