

11.04.2023
Court No. 19
Item No.50
CP

W.P.A. No. 10811 of 2022
Balaram Gayen
Versus
State of West Bengal & Ors.

Mr. Debabrata Chakraborty
Mr. Soumen Bhattacharjee,

....for the Petitioner.

Mr. Malay Krishna De,
Mr. Biswajit Dutta

...for the State-respondents.

Mr. Soumyadeep Biswas

....for the respondent no. 4.

There are allegations and counter allegations by the petitioner and the respondent no. 4 that a construction was being raised on Dag No. 2125/2547 of Mouza – Kanthalberia, without any permission from the Sankarpur No. 1 Gram Panchayat.

The petitioner submits that he is a bargadar in respect of the land in question.

The respondent no. 4 denies such contention and submits that the petitioner himself had started raising an illegal construction.

This court is not in a position to decide the allegations and counter allegations made by the parties.

The writ petition is disposed of with a direction upon the Sankarpur No. 1 Gram Panchayat to treat

the writ petition as a representation and dispose of the same 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 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 alleged construction by either party 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.

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.

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.

This order shall not be construed as a declaration by the court of the right of the petitioner as a bargadar of the land in question. The only issue

to be decided is whether any construction had been raised on the said plot without any conversion and contrary to the provisions of the Panchayat Act. The disputes with regard to title, possession and boundary etc., shall not be decided by the panchayat authorities.

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.)