

17.05.2023
Sl. No.22(DL)
srm

W.P.A. No. 11654 of 2023
Debasish Bose
Versus
State of West Bengal & Ors.

Mr. Tanmoy Khan,
Mr. Palash Bepari
....for the Petitioner.

Mr. Prasanta Kumar Giri,
Ms. Sanjukta Samanta
...for the State-respondents.

Mr. Debabrata Kole
...for the Respondent No.7.

Mr. Suman Basu
...for the Hooghly Zilla Parishad.

Affidavit-of-service is taken on record.

The petitioner submits that the respondent No.7 had constructed a four-storeyed building on Plot No.2776/4551 of mouza Jalaghata, without any permission.

The learned Advocate for the respondent No.7 denies such allegation and submits that the construction has been made strictly in accordance with law.

The learned Advocate for the Hooghly Zilla Parishad submits that without any enquiry it was not possible for the zilla parishad to come to a conclusion.

Without going into the merits of the allegations and counter-allegations levelled by the parties, the writ petition is disposed of with a direction upon the competent authority of the Hooghly Zilla Parishad to consider the representation of the petitioner, which is at page 18 of the writ petition.

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 No.7, with 48 hours advance notice to the petitioner and the respondent No.7.
- 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 No.7.
- d) In case, it is found on preliminary inspection, that there may be reasons to believe that the construction was without permission 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 accordance with law and the amended provisions 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 Hooghly Zilla Parishad.

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.)