

01.02.2023
Sl. No.587(ML)
srm

W.P.A. No. 10931 of 2022

Md. Asraf Ali Mondal

Versus

The State of West Bengal & Ors.

Mr. Shounak Ghosh,
Mr. Anindya Sundar Das,
Ms. Taslima Khatun

....for the Petitioner.

Mr. Susanta Pal,
Mr. Ananda Dulal Sarkar

...for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.2, 3, 6 to 8.

The Court is not inclined to pass mandatory directions as prayed for. The matter is sent back to the appropriate authority for appropriate steps. The writ petition is thus, taken up in the absence of the said respondent Nos.6 to 8, who will be given adequate opportunity of hearing by the authority.

The petitioner alleges that the respondent Nos.6 to 8 who happen to be co-sharers of Plot No.860 corresponding to Khatian Nos.1108, 1080 and 2807 of mouza Begampur, District-North 24-Parganas have raised a construction on

the northern side of the house of the petitioner, thereby, blocking the ingress and egress of the petitioner through the panchayat road.

The petitioner has reasons to believe that the construction has been made without any permission from the Begumpur Bibipur Gram Panchayat. Reliance has been placed on a reply of the concerned gram panchayat under the Right to Information Act.

Without going into the merits of the allegations of the petitioner, the writ petition is disposed of with a direction upon the permission granting authority, that is, Begumpur Bibipur Gram Panchayat, District-North 24-Parganas, to dispose of the representation of the petitioner dated May 6, 2022 being annexure P-8 at page 35 of the writ petition, in accordance with law. While doing so, the gram panchayat shall adhere to the following procedure:-

- a) Inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent Nos.6 to 8, with 48 hours advance notice to the petitioner and the respondent Nos.6 to 8.
- b) Such report shall be handed over to the petitioner as also the respondent Nos.6 to 8.

- c) In case, it is found on preliminary inspection that there may be reasons to believe that the constructions were without permission and had been continuing, the authorities may take interim measures by stopping such construction.
- d) 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.
- e) A reasoned order shall be passed and communicated to the parties in respect of the alleged construction. 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.

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

The Court has not gone into the merits of the claim of the petitioner and the issues raised shall be decided by the competent authority.

The question of title, possession, encroachment, etc. shall not be gone into.

A copy of the writ petition along with a server copy of this order be served upon the Secretary, Begumpur Bibipur Gram Panchayat, District-North 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.)