

S/L 1
13.3.2023
Court. No. 19
sn

W.P.A. 11190 of 2018

Golam Mostafa
VS
The State of West Bengal & Ors.

Mr. Gaus ul Alam

...for the Petitioner.

Mr. Dwarika Nath Mukherjee

Mr. Manik Lal De

...for the State.

Mr. Somnath Adhikary

.for the respondent no.6

Mr. Batindra Narayan Ray

..for the respondent no.7

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

The matter is of 2018 and no useful purpose would be
served by keeping the matter pending.

The petitioner alleges that the respondent no.7 had
raised a construction on an undivided plot of land being L.R.
Dag no. 1965 under mouza Mohanpur without any
permission from the Lochanpur Gram Panchayat.

The learned advocate for the respondent no.6 i.e., the
Pradhan submits that the petitioner had already been
provided with an answer under the Right to Information Act.
As per records there had been no sanction to construct.

This Court is not inclined to go into the merits of the
writ petition.

The Lochanpur Gram Panchayat has already issued a
notice upon the parties to appear before the authority on
March 13, 2023 at 12 noon with all the documents.

Copy of the same is taken on record.

This writ petition is disposed of with a direction upon the permission granting authority, that is, Lochanpur Gram Panchayat to dispose of the complaint of the petitioner 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.7. An advance notice of the inspection shall be served upon the petitioner, the no.7 and 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 construction was without permission and had been 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. 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.7. 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) The only issue to be decided would be, whether the alleged construction was made with permission and/or in deviation of such permission.
- g) The issues which are the subject matter of the civil suit shall not be impacted by this order.
- h) 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 and upon hearing the parties.

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

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.)