

01.05.2023
Sl. No.5(ML)
srm

W.P.A. No. 13316 of 2022
Sri Sourav Khanda &Ors.
Vs.
The State of West Bengal & Ors.

Mr. Debasish Das
....for the Petitioners.

Mr. Jahar Dutta,
Mr. Bipin Ghosh
...for the State-respondents.

Mr. Amit Baran Dash
Ms. Ankana Sarkar
...for the Respondent No.7.

Affidavit-of-service is taken on record.

The petitioners allege that the respondent No.7 had raised a construction over the boundary wall of the petitioners, without leaving the minimum space as per the building rules.

Further allegation is that sanction was not obtained from the Depal Gram Panchayat, Purba Medinipur. Such construction is allegedly on a portion of Plot No.181 of mouza Depal, which is adjacent to the petitioners' land.

As the adjacent owners and being aggrieved by the nature of construction of the respondent No.7, the petitioners approached the gram panchayat by filing a

representation dated June 7, 2022 which is annexure P3 at page 22 of the writ petition.

Under such circumstances, the writ petition is disposed of with a direction upon the Depal Gram Panchayat, Purba Medinipur, to dispose of the representation of the petitioners, in accordance with law.

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 petitioners and the respondent No.7, with 48 hours advance notice to the petitioners 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 petitioners 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 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 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, Depal Gram Panchayat, Purba Medinipur.

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.)