

18.04.2023
Sl. No.96(ML)
srm

W.P.A. No. 14224 of 2022

Kalisadhan Mondal

Vs.

The State of West Bengal & Ors.

Mr. Sabyasachi Mondal,
Mr. Sayan Mukherjee,
Mr. A.S. Fazlul Karim,
Ms. Payel Khanra

....for the Petitioner.

Mr. Santanu Kumar Mitra,
Mr. Mirza Kamruddin

...for the State-respondents.

Despite service, none appears on behalf of the respondent Nos.2, 3 and 7 to 13. Affidavits-of-service are taken on record.

The Court is not inclined to pass mandatory directions as prayed for, but deems it fit to send back the matter before the competent authority, for necessary steps. Thus, the writ petition is taken up in the absence of the respondent Nos.7 to 13, who will be given adequate opportunity of hearing by the said authority.

The petitioner alleges that the respondent No.7 started raising a construction on Plot No.7159 of mouza Kamaria, without any conversion. The land continues to be 'sali'.

The petitioner is the owner of the neighbouring plot and submits that the respondent Nos.8 to 13 are the actual owners of the land, on which the alleged construction is being raised.

Some pictures have been annexed to the writ petition which indicate that concrete wells have been sunk and building materials are stacked on the plot. A boundary wall and a room, also appears to have been raised.

The petitioner has approached the Pradhan of Bamangachi Gram Panchayat, South 24-Parganas by filing a representation dated April 20, 2022, which is annexure P4 at page 22 of the writ petition.

Under such circumstances, the writ petition is disposed of with a direction upon the Bamangachi Gram Panchayat, South 24-Parganas to dispose of the representation of the petitioner, 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 petitioner and the respondent Nos.7 to 13, with 48 hours advance notice to the petitioner and the respondent Nos.7 to 13.

- 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 Nos.7 to 13.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and without conversion 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 Court has not gone into the merits of the claims of the petitioner 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, Bamangachi Gram Panchayat, South 24-Parganas as also the Sub-Divisional Officer, Kakdwip.

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.)