

19.01.2023  
Sl. No.840(ML)  
srm

**W.P.A. No. 14256 of 2022**

**Manash Chatterjee**

**Versus**

**The State of West Bengal & Ors.**

Mr. Tanmay Basu,  
Mr. Debdip Mandal,  
Mr. Manoj Adak

....for the Petitioner.

Mr. Siddhartha Ray,  
Mr. Rahul Verma

...for the Respondent No.9.

Affidavit-of-service is taken on record. Despite service, none appears none appears on behalf of the respondent Nos.1 to 8.

As this Court is not inclined to pass mandatory directions as prayed for, but is relegating the matter before the competent authority, the writ petition is taken up in their absence.

The petitioner alleges that a construction has been raised by the respondent No.9 on Plot No.47/430 corresponding to L.R. Khatian No.794 of mouza Narendrapur, without obtaining permission from the appropriate permission granting authority.

The writ petition is disposed of with a direction upon the Sagar Gram Panchayat, District-South 24-Parganas to consider the representation of the petitioner filed through his learned Advocate dated June 12, 2022, which is annexure P4 at page 30 of the writ petition and dispose of the same in accordance with law.

The issues, which are subject matters of the civil suit, shall not be decided. The right, title and interest of the parties to the property in question shall not be decided. The only issue to be decided would be whether the construction of the respondent No.9 was in compliance with Section 23(1) of the West Bengal Panchayat Act, 1973 and the rules framed thereunder.

The contention of the respondent No.9 that such construction was exempted from permission as per Rule 19 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004 shall also be looked into. The respondent No.9 has also contended that the construction of the petitioner, is without any permission from the authority. Thus, all the issues which have been raised by both the parties as stated hereinabove, shall be decided and disposed of, in accordance with law by the permission granting authority.

The following procedure shall be adopted by the competent authority of the Sagra Gram Panchayat, District-South 24-Parganas while disposing of the matter:-

- a) Inspections of both the sites shall be conducted. Such inspections shall be held in the presence of the petitioner and the respondent No.9 and other interested parties, with 48 hours advance notice to the petitioner and the respondent No.9.
- b) Reports of the inspections shall be prepared along with the sketch maps indicating the extent of deviation, if any.
- c) Such reports shall be handed over to the petitioner as also the respondent No.9.
- d) 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.
- 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) Reasoned orders shall be passed and communicated to the parties in respect of the alleged constructions. 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 and counterclaims of the parties and all the allegations leveled by either party in respect of each other's constructions, shall be gone into by the competent authority of the Sagar Gram Panchayat, District-South 24-Parganas.

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 Pradhan, Sagar Gram Panchayat, District-South 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.)**