

April 18, 2023  
Sl. No.A 108  
Court No.19  
s.biswas

WPA 14370 of 2022

*Palash Bhunrhe and another*  
*vs.*  
*The State of West Bengal and others*

Mr. Pradip Kumar Mondal, Advocate  
... for the petitioners

Affidavit of service filed by the petitioners is taken on record.

Despite service, none appears on behalf of the respondents.

As the Court is not inclined to pass any mandatory direction as prayed for, but deems it fit to relegate the matter to the permission granting authority for determination of the allegation of unauthorized construction, the writ petition is taken up in the absence of the respondent Nos.9 to 14.

The petitioner alleges that the respondent nos.9 to 14 had raised construction on Plot No.1127 of Mouza-Lakshmipur, without any conversion and without any permission from the competent authority. Both the petitioners claim to be patta holders in respect of the land in question. In this proceeding, the right title and interest of the petitioners cannot be decided.

The panchayat authorities are also not empowered by law, to decide such issue of encroachment and/or forceful dispossession. The panchayat authority can only decide the complaint of

the petitioner with regard to unauthorized construction.

The petitioners are granted liberty to approach the gram panchayat by specifically mentioning the alleged illegalities in the construction of the respondent Nos.9 to 14.

The question of title in respect of the said plot shall not be determined. The only issue that shall be determined is whether the respondent nos.9 to 14 had raised any construction without conversion and/or without permission and/or in violation of building rules.

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 petitioners and the respondent Nos.9 to 14. An advance notice of the inspection shall be served upon the petitioners and the respondent Nos.9 to 14 and on 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 any sanction and

was 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 question of right, title, interest, possession and boundary dispute etc. shall not be decided by the panchayat authorities. The issues to be decided would be whether the construction is in accordance with a sanctioned plan or in absence thereof.
- e) A hearing shall be given to the petitioners and the respondent Nos.9 to 14. The parties must also be allowed to furnish their written objection/version to the 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) 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 entire exercise shall be completed within a  
period of four months from the 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  
server copy of this order.

**(Shampa Sarkar, J.)**