

Item No.2
25.04.2023
Court. No. 19
GB

WPA 15070 of 2022

Gobinda Mondal
Vs
The State of West Bengal & Ors.

Mr. Anjan Dutta

...for the Petitioner.

*Mr. Wasim Ahmed,
Mr. T.A. Khan*

...for the State.

Mr. Sandipan Maity

...for the Respondent No.6.

Mr. Saumen Gayen

...for the Respondent Nos.8 to 11.

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

The petitioner alleges that the respondent nos.8 to 11 started raising a construction on L.R. Dag Nos.1024 and 1029 corresponding to L.R. Khatian No.1783 of Mouza-Kailash Nagar, without obtaining any sanction. The learned advocate for the petitioner submits that a complaint was lodged before the Pradhan, Meriganj-II Gram Panchayat on June 14, 2022, but the panchayat authorities failed and neglected to take steps. Hence, the writ petition has been filed.

The learned advocate for the respondent nos.8 to 11 submits that the respondent no.11 is the beneficiary under the PMAY(G) scheme and the respondent nos.8 and 9 reside with the respondent no.11 in a joint mess. That the construction had just started when the petitioner lodged the

complaint and the panchayat authorities asked the said respondents to stop construction.

The Pradhan has also filed a declaration before the Court that the respondent no.11 is a beneficiary under the PMAY(G) scheme and the construction is under the said scheme. The declaration of the Pradhan is taken on record.

The learned advocate for the respondent nos.8 to 11 submits that they are all heirs of late Madhusudan Mondal. An enquiry by the Block Land and Land Reforms Officer, Kultali, indicated that they were wrongly left out from the entries in the record of rights. Direction from the Additional District Magistrate has been sought for so that the record of rights may be corrected in terms of Section 51A(4) of the West Bengal Land Reforms Act, 1955.

The fact that the respondent nos.8 to 11 are heirs of late Madhusudan Mondal, is not denied. Moreover, Rule 19 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004 exempts constructions under any housing scheme for the poor, from the applicability of Section 23 of the West Bengal panchayat Act, 1973. Thus, for the construction under PMAY(G) scheme, no sanction is required. However, the beneficiary is required to construct exclusively as per the drawing/model plan given by the authority.

It is made clear that the respondent nos.8 to 11 shall confine the construction strictly to the model plan provided for construction under the aforementioned scheme. The panchayat authorities and the Block Development Officer

shall monitor the same. In case, there is any deviation from the model plan, the authority shall ensure rectification of the alleged construction. The other contentions of the petitioner with regard to the right, title, interest and possession shall be subject to further decisions by the authorities in the proceedings under the West Bengal Land Reforms Act, 1955 as also in any civil suit that may be filed by the parties.

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.)