

19.04.2023
Court No. 19
Item 124
CP

WPA No. 15261 of 2022

Joydev Koley

Vs.

The State of West Bengal & ors.

Mr. Kushal Chatterjee

Mr. Subhasish Mitra

Mr. Shibjit Mitra

....for the petitioner.

Affidavit of service is taken on record.

Despite service, none appears on behalf of the respondents.

As this court is not inclined to pass any mandatory directions as prayed for, but deems it fit to relegate the matter to the permission granting authority, this writ petition is taken up in their absence.

The petitioner alleges that the respondent nos. 7 to 9 had raised some construction on L.R. Plot No. 1894 corresponding to L.R. Khatian No. 2324 of Mouza – Dewanveri, without obtaining necessary conversion and permission. It is submitted that the record of rights would indicate that the Plot No. 1894 had been classified as 'Nalkup', meaning thereby that the said plot would only be used for installation of

tubewells or pumps for the purpose of supply of ground water.

The petitioner also submits that a partition suit is pending between the parties and there is a subsisting order of status quo.

Without going into the merits of the allegations of the petitioner, the writ petition is disposed of with a direction upon the Gapalnogore Gram Panchayat to consider the representation of the petitioner which is Annexure P-7, at page 32 of the writ petition, in accordance with law. While doing so, the authorities will follow the procedure stated hereinbelow:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos. 7 to 9. An advance notice of the inspection shall be served upon the petitioner and the respondent nos. 7 to 9 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 permission 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.
- e) A hearing shall be given to the petitioner and the respondent nos. 7 to 9. 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. 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.

The court has not gone into the merits of the claims.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

The disputes with regard to title, possession and boundary etc., shall not be decided by the panchayat authorities.

If the concerned Sub-Divisional Officer is of the opinion that the construction was unauthorized and deserves to be demolished but implementation of such demolition order would be in conflict with the subsisting order of status quo, the petitioner will be at liberty to approach the learned civil court for variation, modification or clarification of the same.

A copy of the writ petition along with a server copy of this order be served upon the concerned gram panchayat for necessary compliance 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 the server copy of this order.

(Shampa Sarkar, J.)