

20.04.2023
Sl. No.133(ML)
srm

W.P.A. No. 15716 of 2022

Samir Malik

Versus

The State of West Bengal & Ors.

Mr. Supriyo Chattopadhyay,
Ms. Anasuya Bhattacharya

....for the Petitioner.

Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee

...for the State-respondents.

Mr. Sarbananda Sanyal,
Mr. Soumy Basu Roy Chaudhuri,
Mrs. Poulam Basu Roy Chadhuri

...for the Respondent Nos.7 to 10.

Affidavit-of-service is taken on record.

The petitioner alleges that the respondent Nos.7 to 10 have raised a construction on Plot No.368 corresponding to Khatian No.963 of mouza Santoshpur, without obtaining conversion and without permission from the respective authorities. Reference is made to the record of rights in order to substantiate the claim that the said land has been classified as a '*doba*'.

The learned Advocate for the respondent Nos.7 to 10 submits that the construction was being raised on Plot No.367 and not on Plot No.368. The permission for

construction on Plot No.367 had been granted by the Raghudevapur Gram Panchayat, Howrah. It is further submitted that on the unfounded allegations of the petitioner, the panchayat authorities issued a stop work notice.

The writ petition is disposed of with a direction upon the panchayat authorities to decide as to whether there has been any deviation from the plan, as a result of which, the construction of the respondent Nos.7 to 10 has extended over a portion of the pond in plot No.368, or not.

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 10, with 48 hours advance notice to the petitioner and the respondent Nos.7 to 10.
- 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 10.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction

was without conversion as also in violation of the building rules and in deviation of the plan and was 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 questions of right, title, interest, encroachment, etc. shall not be gone into.

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, Raghudevapur Gram Panchayat, Howrah.

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.)