

Item No.4
25.04.2023
Court. No. 19
GB

WPA 16045 of 2022

Koppur Dolui
Vs
The State of West Bengal & Ors.

*Sk. Toslim Ali,
Ms. Soba Parween*

...for the Petitioner.

*Mr. Rajarshi Basu,
Mr. Parikshit Goswami*

...for the State.

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

Despite service, none appears on behalf of the respondent nos.5 to 11. As the Court is not inclined to pass any mandatory direction as prayed for by the petitioner but deems it fit to relegate the matter to the authority empowered by law to decide the issue of unauthorized constructions, the writ petition is taken up in the absence of the said respondents.

The petitioner alleges that the respondent nos.6 to 11 raised a construction on L.R. Plot No.3910 of Mouza-Amta, without any permission from the Amta Gram Panchayat. The petitioner approached the authorities by filing a representation on July 1, 2022. The said representation is yet to be disposed of. Hence, the writ petition has been filed alleging inaction.

The writ petition is disposed of with a direction upon the Amta Gram Panchayat to consider the representation of

the petitioner dated July 1, 2022 in accordance with law and take necessary steps in this regard.

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 petitioner and the respondent nos.6 to 11. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.6 to 11 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 but was continuing, the authorities may take 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 title, possession and boundary dispute etc. shall not be decided by the panchayat authorities. The questions to be decided by the panchayat authorities would be whether the construction has been made without any permission or in violation of the building rules.

- e) A hearing shall be given to the petitioner and the respondent nos.6 to 11. 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 court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently.

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 the server copy of this order.

(Shampa Sarkar, J.)