

May 1, 2023
Sl. No.A 7
Court No.19
s.biswas

WPA 16205 of 2022

Partha Pratim Das
vs.
The State of West Bengal and others

Mr. Abhimanyu Banerjee,
Mr. Arnab Saha

... for the petitioner

Mr. Molay Singh,
Mr. Bibekananda Tripathy

... for the State

Mr. Debasish Roy,
Mr. Debnath Mahata

... for the respondent No.6

The petitioner alleges that during the subsistence of an ad interim order of injunction passed in Title Suit No.91 of 2021, the authorities of Kankalitala Gram Panchayat, had granted a post facto sanction in respect of the construction on Plot No.331/367 corresponding to L.R. Khatian No.76/1, J.L. No.96 of Mouza-Utar Narayanpur, contrary to the provisions of law.

According to the petitioner, the sanction was granted on the same day when the application was filed by the respondent No.6. Only to protect an illegal construction, such steps were

and from raising any construction on the land in question. The said civil suit is pending.

Mr. Roy, learned Advocate submits that the ad-interim order was not binding on the respondent No.6 That the panchayat authorities granted sanction on the basis of the documents available.

Having heard the learned advocate for the respective parties, the Court has come to the following conclusion:

- a) Post facto sanction cannot be granted.
- b) The pendency of the civil suit with regard to the right, title and interest of the respondents would not debar the panchayat authorities from granting sanction in accordance with law, if the party seeking sanction produces relevant documents.
- c) If there is an order of injunction, over the suit property, no construction can be raised.
- d) The panchayat authorities cannot go into merits of the case with regard to right, title and interest. If the right of the petitioner is declared in the civil suit in respect of the land in question, consequences will follow and the alleged construction shall be removed in execution of the decree.
- e) The validity of the sanction would depend on whether the respondent no.6 had submitted

the application for sanction before the construction had commenced and also whether the sanction had been granted before any construction had started.

- f) Such decision to grant sanction to the respondent no.6 should have been adopted in the meeting of the gram panchayat, held strictly in accordance with law.

The above issues cannot be decided by the Writ Court, in the absence of the facts on record.

Under such circumstances, the writ petition is disposed of, directing the Kankalitala Gram Panchayat authority to dispose of the representation of the petitioner dated June 9, 2021, which is annexed as Annexure P/6 at page 63 to 66 of the writ petition, in accordance with law.

The panchayat authority will not go into the issue of title, encroachment, etc. The only issue to be decided would be whether the sanction had been granted in accordance with law and prior to the commencement of construction. Whether the decision was adopted by the gram panchayat at a meeting scheduled as per the provisions of law. Before any decision is taken, the parties shall be heard. The parties shall be allowed to produce all the relevant documents during hearing. A reasoned order shall be passed and communicated to all.

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

The Court has not gone into the merits of the allegation levelled against the respondents. On the basis of what transpires at the hearing, steps shall be taken by the authorities, strictly in accordance with law.

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.)