

Item No.5
25.04.2023
Court. No. 19
GB

WPA 16245 of 2022

Dilip Basak
Vs
The State of West Bengal & Ors.

Mr. Debajyoti Mondal

...for the Petitioner.

*Mr. Sudipto Panda,
Mr. Subrata Ghosh*

...for the State.

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

Despite service, none appears on behalf of the respondents.

The petitioner is aggrieved as the Pradhan of Dhatrigrām Gram Panchayat did not dispose of the letter written by the petitioner dated June 3, 2022. By the said letter, the petitioner sought permission for effecting some repairs in respect of the shop room which was under the occupation of a tenant, since long. The tenant has been evicted and the possession thereof is with the petitioner.

Rule 19 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004 provides that as a general rule repairs can be effected without permission except under certain circumstances.

“19. Exemption from permission.- (1) No permission of the Gram Panchayat shall be necessary for erection of any thatched structure, tin shed, or tile shed, without brick wall, covering an area not exceeding eighteen square metres, and such structure or shed does not cover more than three-fourth of the total area of the land including the land appurtenant thereto.

(2) Permission of the Gram Panchayat shall not be necessary for repair of an existing structure or building unless,

- (i) any structural change is involved, or*
- (ii) such repair brings any change in the existing covered area, or*
- (iii) such repair includes any addition of a projection from the existing structure or building ground level or upper level.*

(3) permission of a Gram Panchayat shall not be necessary for erection of a boundary wall unless it is made of brick or cement and the bounded area is not kept as vacant land but it is used or likely to be used as stack yard or for any commercial or institutional purpose either on open space or by erecting temporary shed.”

The petitioner would be entitled to carry out general repair works but cannot effect any change to the existing covered area, height, external elevation of the existing structure, under sub-rule (2) stated hereinabove. No addition and alteration can also be made. Accordingly, the Dhartrigram Gram Panchayat is directed to issue necessary orders indicating the nature of repair and the terms and conditions that should be followed by the petitioner while executing such repair works. The date from which such repair will be effected, shall also be indicated.

The panchayat authorities shall take a decision and intimate the same to the petitioner within a period of two weeks from the date of receipt of the copy of this order. In case no communication is received, the petitioner shall carry out the repairs as per the rules by adhering to the provisions quoted hereinabove.

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.)