

Item No.6
25.04.2023
Court. No. 19
GB

WPA 16268 of 2022

Lakshman Chandra Ghosh
Vs
The State of West Bengal & Ors.

*Mr. Gautam Brahma,
Ms. Sudipa Biswas*

...for the Petitioner.

*Ms. Piyali Sengupta,
Mr. R. Das*

...for the State.

*Mr. Jyoti Prakash Chatterjee,
Mr. D. Das*

...for the Respondent No.6.

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

The petitioner alleges that the respondent no.6 started raising a construction on L.R. Plot No.1314 of Mouza-Moynagori, without any conversion of the land from 'Sali' to 'Bastu' and without any sanction from the Boro Dhamash Gram Panchayat.

The learned advocate for the respondent no.6 denies such allegation and submits that there are no constructions on the land in question. Further contention is that, the panchayat authorities are also not empowered by law to decide the allegation of encroachment of the petitioner's land.

The learned advocate for the State respondents has submitted a report prepared by the Revenue Inspector, Kalna-II Block, Purba Bardhaman dated July 26, 2022. It appears that an order for conversion of Plot No.1314 of

Mouza-Moynagori to 'Bastu', had been passed by the competent authority. A permission for construction on Plot No.1314 had also been allegedly granted.

The records which have been produced do not indicate when and how such permission had been granted by the gram panchayat, to raise any construction. A letter issued by the Pradhan dated June 13, 2022 indicates that the Pradhan did not have any objection if the land was converted from 'Sali' to 'Bastu'. Permission for construction is granted in terms of Section 23 of the West Bengal Panchayat Act, 1973 read with Rule 17 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004.

Under such circumstances, the writ petition is disposed of granting liberty to the petitioner to file a composite representation before the Boro Dhamsash Gram Panchayat. If such representation is filed, the same shall be disposed of adopting the following procedure:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no.6. An advance notice of the inspection shall be served upon the petitioner and the respondent no.6 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 any conversion and

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 conversion or without any permission or in violation of the building rules.
- e) A hearing shall be given to the petitioner and the respondent no.6. 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 receipt of the petitioner's representation.

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.)