

17.05.2023
Court No. 19
Item 02
CP

WPA 16908 of 2022

Pravat Kumar Dey
vs.
The State of West Bengal and others

Mr. Soumyajit Das Mahapatra,
... for the petitioner
Mr. Rajarshi Basu,
Mr. K. M. Hossain,
... for the State

Mr. Uttam Kr. Bhattacharya
Mr. Kaustuv Mishra

.....for the respondent nos. 12 to 20.

Mr. Probal Sarkar

...for the respondent no. 11.

The petitioner alleges that the respondent nos. 12 to 20 had raised some construction on a land which was recorded in the name of the State of west Bengal. It is submitted that one of the members of the Sankoa No. 2 Gram Panchayat intimated the petitioner that no permission for such construction had been given.

Learned advocate appearing for the respondent nos. 12 to 20, has handed over some documents, *inter alia*, showing that the land which had allegedly vested, had been distributed amongst several patta holders. The respondent nos. 12 to 20 are tenants under the said patta holders.

Learned advocate for the pradhan appears before the court but is unable to answer the queries of the court.

Thus, this court deems it fit to dispose of the writ petition granting liberty to the petitioner to file a representation before the Sankoa No. 2 Gram Panchayat with a request to make an inquiry as to whether the alleged constructions have been made upon permission from the concerned gram panchayat or not.

If such representation is filed, the same shall be disposed of by adopting the following procedure:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos. 12 to 20. An advance notice of the inspection shall be served upon the petitioner and the respondent nos. 12 to 20 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 and was continuing, the

authorities may take such 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.
- e) A hearing shall be given to the petitioner and the respondent nos. 12 to 20. 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. 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.
- g) Needless to mention, after the entire proceeding is over, the competent authority will demolish the structure, if any unauthorized construction is detected.

The court has not gone into the merits of the claims.

The entire exercise shall be completed within a period of four months from the date of receipt of the representation.

The only issue to be decided would be whether any construction had been raised either without any plan or in deviation of a plan or contrary to the building rules. The disputes with regard to title, possession and boundary etc., shall not be decided by the panchayat authorities.

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.

Parties are also directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)