

S/L 4
02.01.2023
Court. No. 19
GB

W.P.A. 17152 of 2022

Sadhan Chandra Ghosh
VS
The State of West Bengal & Ors.

*Mr. Mohinoor Rahaman,
Ms. Maria Rahaman,
Mr. Iqra Rahaman.*

...for the Petitioner.

*Mrs. Jhuma Chakraborty,
Mr. Aritra Ghosh.*

...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 9. As this Court is not inclined to pass any mandatory directions but is relegating the matter before the authority empowered by law to deal with unauthorized construction, the writ petition is taken up and disposed of in their absence.

The petitioner alleges that the respondent nos.6 to 9 have raised an unauthorized construction on L.R. Plot No.217 of Mouza-Nimpuria without any permission from the panchayat authorities. It is submitted that the nature and size of the construction indicates that the appropriate permission granting authority would be the gram panchayat.

Without going into the merits of the allegations made by the petitioner, the writ petition is disposed of with a direction upon the Shanpukur gram panchayat to dispose of the representation of the petitioner dated July 14, 2022 in

accordance with law. 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 9. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.6 to 9 and 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 had been continuing, the authorities may take such interim measures by stopping such construction.
- c) The report of such inspection shall be prepared along with a 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 right, title, possession and boundary dispute shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioner and the respondent nos.6 to 9. 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, 1973.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently, upon hearing the parties.

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.)