

April 28, 2023  
Sl. No.A 194  
Court No.19  
s.biswas

WPA 17315 of 2022

*Jahira Begum @ Khatun*

*vs.*

*The State of West Bengal and others*

Mr. Mahaboob Ahmed

... for the petitioner

Mr. Srinath Singha Roy

... for the State

The petitioner alleges that the respondent no.10 had raised a construction on plot no.326 corresponding to Khatian No.193/1 of Mouza Santoshpur, without any sanction plan. A claim to right, title and interest in respect of the land has been made. Allegations of encroachment and disturbance have been pleaded.

It further appears that a civil suit is pending between the parties, before the learned Civil Judge (Senior Division), Serampore.

The petitioner prays for a direction upon the State authorities to take steps for demolition of the unauthorized construction.

Learned advocate for the respondent no.10 denies the allegation and submits that the order of ad interim injunction, which was passed by the learned Civil Judge (Senior Division), Serampore, had been recalled.

A copy of the sanction plan issued by the Radhanagar Gram Panchayat on March 24, 2015

has been submitted before this Court. The plan does not indicate the period of validity.

It appears that a proposed single storeyed commercial building had been sanctioned in favour of one Abdulla Mallick son of Late Yeakub Ali Mallick, for construction of a single storeyed commercial structure at Dag No.326.

The petitioner submits that such constructions could not have been raised without any permission from the Furfura Sharif Development Authority.

The submissions of the learned counsel for the petitioner are not accepted for the following reasons:-

- a) The Furfura Sharif Development Authority was constituted after the sanction had been granted by the gram panchayat.
- b) The allegation of unauthorized construction has not been substantiated. There is a sanctioned building plan.
- c) The petitioner has not approached any of the authorities with his grievances, but has moved this writ petition straight away. Only the District Magistrate, Hooghly and Furfura Sharif Development Authority were approached. A copy was marked to the Block Development Officer, Jangipara Development Block. None of the authorities is the permission granting authority.

The report filed by the police authority is taken on record. It appears that in order to maintain peace and tranquillity in the locality, prosecution case under Sections 107/116(c) of the Code of Criminal Procedure has been submitted.

The only issue, which now arises is whether the construction of the respondent no.10 was within the validity of the alleged plan or not.

For such determination the petitioner must first approach the panchayat authorities by filing an application and enquire about the validity and legality of the plan, which has been produced by the respondent no.10.

If such plan had been sanctioned, the panchayat authority shall intimate the petitioner about the period of validity of the plan. Further, whether the construction was made within the said period should also be informed. In case, the validity of the plan had expired or the plan had not been duly sanctioned, whether the respondent No.10 had moved the appropriate authorities after the amendment of the laws, for revalidation of the sanction, must also be informed. The information shall reach the petitioner within four weeks from receipt of the petitioner's application.

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.)**