

April 28, 2023
Sl. No.A 197
Court No.19
s.biswas

WPA 17392 of 2022

Nabi Gazi alias Golam Nabi Gazi
vs.
The State of West Bengal and others

Mr. Rafiqul Islam,
Ms. Manika Sarkar

... for the petitioner

Affidavit of service filed by the petitioner is taken on record.

Despite service, none appears on behalf of the respondent nos.4, 7 and 8.

As the Court is not inclined to pass any mandatory direction as prayed for, but deems it fit to relegate the matter to the permission granting authority for determination of the allegation of unauthorized construction, the writ petition is taken up in the absence of the respondent Nos.4, 7 and 8.

The petitioner alleges that during the subsistence of the civil suit and an order of injunction passed in Title Suit No.781 of 2017 pending before the Civil Judge (Junior Division), Barasat, the respondent nos.7 and 8 started raising construction contrary to the provision of law on the disputed land.

The schedule of the land is as follows:-

Mouza- Mohammadpur, J.L. No.52, R.S. Plot No.1294, 1295, 1296, 1297, 1298, 1455, R.S. Khatian No.267, L.R. Khatian No.114/1 and 1362/1 under Rajarhat Police Station.

The petitioner further apprehends that the panchayat authorities had granted a sanction in

favour of the said respondents, without considering the objection raised by the petitioner as a co-sharer in respect of the undivided plot.

The rules provide that without consent of the co-sharers and/or without 'No Objection' from co-sharers plans cannot be sanctioned.

Under such circumstances, the writ petition is disposed of, with direction upon the pradhan, Rajarhat Bishnupur No.2 Gram Panchayat, to take into consideration the objection of the petitioner dated June 20, 2022, which is annexed as Annexure P/11 at page 61 of the writ petition and pass necessary orders within four weeks from the communication of the order.

Before the panchayat authority takes any decision the petitioner as also the respondent nos.7 and 8, will be given an opportunity of hearing.

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.)