

19.01.2023
Sl. No.841(ML)
srm

W.P.A. No. 17633 of 2022
Tapas Kumar Chatterjee
Versus
The State of West Bengal & Ors.

Mr. Debdas Khanna,
Mr. Himadri Sikher Chakraborty,
Ms. Barnali Gantail
....for the Petitioner.

Affidavit-of-service is taken on record. Despite service none appears none appears on behalf of the respondents.

As this Court is not inclined to pass mandatory directions as prayed for, but is relegating the matter before the competent authority, the writ petition is taken up in their absence.

The petitioner alleges that the Pradhan, Pandugram Gram Panchayat, District-Purba Bardhaman intimated the Sub-Divisional Officer, Katwa that the construction of the respondent Nos.7 and 8 was in violation of the building rules and adequate space was not maintained. No steps have yet been taken by the said gram panchayat, despite receiving an objection from the petitioner.

The petitioner filed a representation through his learned Advocate before the concerned gram panchayat

dated November 12, 2021, being annexure P2 at page 26 of the writ petition.

The writ petition is disposed of with a direction upon the Pandugram Gram Panchayat, District-Purba Bardhaman to consider the representation of the petitioner dated November 12, 2021, which is annexure P/2 at page 26 of the writ petition and dispose of the same in accordance with law.

The following procedure shall be adopted by the permission granting authority, while disposing of the matter:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent Nos.7 and 8, with 48 hours advance notice to the petitioner and the respondent Nos.7 and 8.
- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioner as also the respondent Nos.7 and 8.
- d) 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 interim measures by stopping such construction.

- e) A hearing shall be given to all the parties. 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.
- 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 the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

The Court has not gone into the merits of the claim of the petitioner and the issues raised shall be decided by the competent authority of the Pandugram Gram Panchayat, District-Purba Bardhaman.

The question of title, possession, encroachment, etc. shall not be gone into.

A copy of the writ petition along with a server copy of this order be served upon the Pradhan, Pandugram Gram Panchayat, District-Purba Bardhaman.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)