

22.02.2023
Court No. 19
Item No.10
CP

W.P.A. No. 18542 of 2021

Kanchan Mondal & anr.
Vs.
The State of West Bengal & Ors.

Md. Hasanuz Zaman
Md. Z. Zaman
....for the petitioners.

Mr. Soumen Bhattacharjee
Mr. Amal Kumar Datta
...for the respondent nos. 6 & 7.

Mr. Jahar Lal De
Mr. Amrit Lal Chatterji
....for the State.

Despite service, none appears on behalf of the Pradhan, Beledurganagar Gram Panchayat.

The petitioners allege that the respondent nos. 6, 7 and 8 have been raising an unauthorized construction on Plot Nos. 3688 of Mouza – Taranagar. It is also submitted that a partition suit is pending between the parties and there is a subsisting order of injunction.

Learned advocate for the respondent nos. 6 & 7 has filed copies of two plans sanctioned by the Pradhan, Beledurganagar Gram Panchayat. It appears that two separate sanctions in the individual names of the respondent nos. 6 and 7 had been granted by the Beledurganagar Gram Panchayat.

There seems to be certain discrepancies in these plans. The plan issued in the name of Basudeb Mondal does not bear the date of sanction. In both the plans the signatures of the Pradhan and the owner appear in the wrong places. Thus, the authenticity of these plans have to be ascertained first, before any order is passed directing demolition.

Liberty is granted to the petitioners to file a detailed representation before the Pradhan, Beledurganagar Gram Panchayat upon marking a copy to the concerned Block Development Officer.

The query of the petitioners would be whether any plan had been sanctioned in favour of the respondent nos. 6 and 7 for construction over Plot No. 3688 of Mouza – Taranagar. The present Pradhan of the Beledurganagar Gram Panchayat upon receipt of the representation of the petitioners shall consult the records and also communicate with the erstwhile Pradhan to ascertain the genuineness of the plans in question. A decision shall be arrived at by the said Pradhan with regard to the above issue. A reasoned order shall be passed and communicated to all. Before such decision is arrived at, the parties shall be heard.

If it is found that the plans were not genuine, the authority shall take steps in accordance with Section 23(5) of the West Bengal Panchayat Act, 1973.

If it is found that the constructions were permitted in that event, the other remedies of the petitioners would be before the civil court. Only, the point of deviation from the plan can be raised before the authority and the authority shall then proceed in accordance with law.

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

This order shall not have any bearing on the pending suit.

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.)