

May 2, 2023
Sl. No.A 80
Court No.19
s.biswas

WPA 17937 of 2022

Haridas Chowdhury

vs.

Mohanpur Gram Panchayat and others

Mr. Koushik Roy

... for the petitioner

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

Despite service, none appears on behalf of the respondents.

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 respondents.

The petitioner alleges that the respondent nos.10 to 12 had constructed a temple adjacent to the boundary wall of the petitioner without leaving adequate space and without permission from the Mohanpur Gram Panchayat.

Reliance has been placed on the documents issued by the gram panchayat in respect of the query under the Right to Information Act. According to such answer to the query made by the petitioner, it appears that a 'Shiv Kali Mandir', situated on a road at Dag No.914(P) of Mouza-Jaffarpur, was

constructed with the consent of the local people, but no permission had been taken for such construction.

Under such circumstances, the writ petition is disposed of with direction upon the Mohanpur Gram Panchayat to consider the representation of the petitioners 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.10 to 12. An advance notice of the inspection shall be served upon the petitioner and the respondent Nos.10 to 12 and on 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. The authority shall also explore the requirement of law for obtaining permission to construct places of worship on any land within the panchayat area. Whether such permission had been obtained from the district authorities under the relevant law, must be ascertained. Only on the consent of some of the persons in the locality, by causing inconvenience to some

others, such temple could not have been raised without leaving proper side space.

- b) A report of such inspection with the details shall be prepared along with a sketch map, indicating the extent and nature of unauthorized construction, if any.
- c) Such report shall be handed over to the parties. The question of right, title, interest, possession and boundary dispute etc. shall not be decided by the panchayat authorities. The issues to be decided would be whether the construction was in accordance with law and upon obtaining proper permission under the relevant statute applicable for construction of a place of worship.
- d) A hearing shall be given to the petitioner and the respondent Nos.10 to 12 and other villagers. The parties must also be allowed to furnish their written objection/version to the 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.
- e) 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 accordance with
the relevant law.

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

(Shampa Sarkar, J.)