

02.05.2023
Court No. 19
Item 91
CP

WPA No. 18149 of 2022

Sahidul Molla
Vs.
The State of West Bengal & Ors.

Mr. Iqra Rahaman
... for the petitioner.

Ms. Sweta Mukherjee
... for the State.

Ms. Maria Rahaman
....for the respondent no. 5.

Despite service, none appears on behalf of the respondent no. 6.

As this court is not inclined to pass any mandatory directions as prayed for, but deems it fit to relegate the matter to the permission granting authority, this writ petition is taken up in his absence.

The petitioners allege that the respondent no. 6 had started raising a construction on L.R. Plot Nos. 260 and 261 of Mouza – Janardanpur, without any permission from the Salipur Gram Panchayat. A representation has been filed before the concerned gram panchayat which is annexure P-2 at page 15 of the writ petition.

The writ petition is disposed of with a direction upon the Salipur Gram Panchayat to consider the

said representation of the petitioner and dispose of the same in accordance with law. While doing so, the authorities will follow the procedure stated hereinbelow:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no. 6. An advance notice of the inspection shall be served upon the petitioners and the respondent no. 6 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.
- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such interim measures by stopping such construction.
- c) A report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties.

- e) A hearing shall be given to the petitioners and the respondent no. 6. 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. All points raised by either party, will be decided.
- 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 Section 23(5) of the West Bengal Panchayat Act.

The court has not gone into the merits of the claims.

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

The disputes with regard to ownership, title, encroachment and further allegation of forceful dispossession etc., shall not be decided by the panchayat authorities.

A copy of the writ petition along with a server copy of this order be served upon the concerned

gram panchayat for necessary compliance of this 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 the server copy of this order.

(Shampa Sarkar, J.)