

ML 95
02.05.2023
Court. No. 19
GB

WPA 18375 of 2022

Abul Mullick
Vs
The State of West Bengal & Ors.

Mr. Mahaboob Ahmed

...for the Petitioner.

*Mrs. Anwari Quraishi,
Mrs. Zainab Tahir*

...for the State.

Mr. Animesh Das

...for the Respondent No.9.

The writ petition is disposed of with a direction upon the Jagatballavpur-I Gram Panchayat to make an enquiry and ascertain whether the respondent nos.8 and 9 had raised the construction on Plot No.203, corresponding to Khatian No.1381 of Mouza-Chaksadat, in deviation of the sanction plan or in violation of the building rules.

The writ petition was filed with two-fold allegations. First, that the panchayat authorities had not granted permission for such construction and secondly that the construction has been made without leaving the statutory spaces.

The learned advocate for the respondent nos.8 and 9 have produced the documents to show that the construction was permitted by the gram panchayat.

Thus, the allegation of construction without any permission does not survive. The issues of deviation and violation of the building rules, shall be considered. While

deciding the issues, the following procedure shall be adopted by the gram panchayat.

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.8 and 9. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.8 and 9 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 any sanction and/or 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. The question of title, possession and boundary dispute etc. shall not be decided by the authorities. The questions to be decided would be whether the construction had been made in violation of the building rules and in deviation from the sanction plan.
- e) A hearing shall be given to the petitioner and the respondent nos.8 and 9. 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.

- 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, 1973.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently.

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