

04.05.2023
Court No. 19
Item 122
CP

WPA No. 19296 of 2022

Gopal Chandra Naskar
Vs.
The State of West Bengal & Ors.

Mr. Subhendu Banerjee
... for the petitioner.

Ms. Sima Adhikari
Ms. Mitali Mukherjee
... for the State.

Mr. Munshi Ashiq Elahi
...for the respondent nos. 5 and 6.

The allegation of the petitioner is that the construction of the respondent nos. 5 and 6 on an undivided plot of land, being Plot No. 1560 corresponding to Khatian No. 15, 445 and 650 under Mouza – Madhusudanpur, is without any permission/sanction from the panchayat authorities.

Learned advocate for the respondent nos. 5 and 6 submits that the construction on the alleged plot no. 1560 measuring a total area of 0.13 decimals was permitted under the PMAY (G) Scheme. The bank statements have been produced before the court in this regard showing transfer of the financial benefits for such construction.

Construction of any structure under the PMAY (G) Scheme is not required to be permitted by the gram panchayat. The building rules applicable in

cases of construction within a panchayat area are also not applicable in case of constructions under the PMAY(G) Scheme. However, the beneficiaries are required to construct, strictly according to the model plans which are handed over to the beneficiaries by the authorities.

Thus, the allegations of construction being without the permission from the authorities and contrary to the building rules, are not accepted.

However, if it is the contention of the petitioner that the construction was not in accordance with the model plan and the specifications required for such construction under the PMAY(G) Scheme or on a different plot, the petitioner is at liberty to approach the Block Development Officer with his allegations. If any objection is filed, the same shall be considered and disposed of in accordance with law upon holding an inspection in presence of all the parties and upon giving an opportunity of hearing to all the parties.

A reasoned order shall be passed and communicated to the parties. The court has not gone into the merits of the claims.

The entire exercise shall be completed within a period of two months from the date of receipt of the petitioner's application.

The allegation of encroachment and possession etc. cannot be gone into by the court. The petitioner

is entitled to file a partition suit and pray for necessary orders with regard to the aforementioned construction, in accordance with law.

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.)