

04.05.2023
Court No. 19
Item 124
CP

WPA No. 19514 of 2022

Biswanath Mandol
Vs.
The State of West Bengal & Ors.

Mr. Rabindra Kumar Jaiswal

... for the petitioner.

Mr. Gausul Alam
Md. Yusuf Ali

....for the State.

Mr. Kallol Kumar Basu
Md. Jannat ul Firdous

...for the respondent nos. 7 to 10.

The allegation of the petitioner that the respondent nos. 7 to 10 had raised a three storeyed building with shoprooms, without permission from the panchayat authorities, is not substantiated.

The said respondents have produced documents to show that in 2013, a three storeyed building had been permitted on R.S. Dag No. 181 corresponding to Khatian No. 972, J.L. No. 35 under Mouza – Chhapna, by the Patharhgata Gram Panchayat.

The only dispute which now arises is whether the construction was completed within the validity of the plan which was sanctioned in 2013 or has just commenced after the plan expired and without renewal of the earlier plan. Further, the law has also

changed pursuant to the 2017 amendments and the height and the plinth area and other dimensions of the alleged construction indicate that the gram panchayat would not have any further role to play, after 2017 either for grant of new sanction or renewal or to take any steps with regard to such building.

The writ petition is disposed of permitting the petitioner to approach the Patharhgata Gram Panchayat for information as to whether the sanction of three storeyed building had been granted by the Pradhan of Patharhgata Gram Panchayat on June 9, 2013 or not.

If the answer is in the affirmative, the authority shall be further requested to cause an inspection in presence of the parties and intimate the petitioner as to whether the construction had been completed by the respondent nos. 7 to 10 during the validity of the alleged sanction. In case, it is found that the construction is recent and not during the validity of the sanction granted, the gram panchayat shall refer the matter to the appropriate permission granting authority for necessary steps.

It is made clear that the authorities will give every opportunity to the petitioner and the respondent nos. 7 to 10 to be present during inspection and at the hearing.

The intimation of the gram panchayat shall reach the parties within a month from the date of receipt of the petitioner's representation.

If the gram panchayat decides to forward the documents to the appropriate permission granting authority for necessary steps, the said permission granting authority shall intimate the parties about date of inspection and hearing and then proceed with the matter, strictly in accordance with law and upon compliance of the principles of natural justice.

The issues of right, title, possession and encroachment, shall be determined in the suit which is already pending.

The authorities under the West Bengal Panchayat Act, 1973 shall restrict their findings and consideration to the issues which has already been stated hereinabove.

The court has not gone into the merits of the allegations. The issues shall be decided independently.

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.)