

May 8, 2023
Sl. No. A 135
Court No.19
s.biswas

WPA 19974 of 2022

Durga Bala Mondal

vs.

The State of West Bengal and others

Mr. Sounak Bhattacharya

Mr. Sounak Mondal

Mr. Anirban Saha Ray

... for the petitioner

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

Despite service, none appears on behalf of the respondent no.5.

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 respondent no.5.

The petitioner alleges that the respondent no.5 has started raising a construction on L.R. Dag No.1230 corresponding to Khatian No.325 of Mouza-Udayrampur, without an permission from the Ramnagar Gazipur Gram Panchyat.

The petitioner already approached the Pradhan of Ramnagar Gazipur Gram Panchyat by filing a representation, which is annexed as Annexure P/3 at pages 37 to 39 of the writ petition.

The Ramnagar Gazipur Gram Panchayat, is directed to consider the said representation of the petitioner 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 no.5. An advance notice of the inspection shall be served upon the petitioner and the respondent 5 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) 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 questions 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.

- d) A hearing shall be given to the petitioner and the respondent no.5. 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.)