

S/L 11
02.01.2023
Court. No. 19
GB

W.P.A. 23147 of 2022

Chiranjit Mondal
VS
The State of West Bengal & Ors.

*Mr. Sahid Uddin Ahmed,
Mr. Anupam Bar.*

...for the Petitioner.

*Mr. Rajarshi Basu,
Mr. S.T. Mina.*

...for the State.

Affidavit-of-service filed in Court today, be kept with the record.

Despite service, none appears on behalf of the respondent nos.6 and 7. As this Court is not inclined to pass any mandatory directions but is relegating the matter before the authority empowered by law to deal with unauthorized construction, the writ petition is taken up and disposed of in their absence.

The petitioner alleges that a construction is being raised by the respondent no.7 on Plot No.32, corresponding to Khatian No.2154 of Mouza-Jagadishpur. It is alleged that the said land has been classified as a 'Sali'. Such construction has been made without obtaining any permission and without conversion of the land from 'Sali' to 'Bastu'.

Reference has been made to Section 23 of the West Bengal Panchayat Act, 1973 and Rule 26 of the West Bengal panchayat (Gram Panchayat Administration) Rules, 2004.

Without going into the merits of the allegations made, the writ petition is disposed of with a direction upon the

Kamrabad gram panchayat to dispose of the representation/objection of the petitioner dated September 20, 2022 in accordance with law.

If the panchayat authority, upon inspection, find that the permission granting authority would be the Zilla Parishad as per the height and plinth area, the matter shall be referred to the Zilla Parishad by the gram panchayat. In either case, the contention of the petitioner as raised in the representation dated September 20, 2022 shall be disposed of by the appropriate permission granting authority in accordance with law. While doing so, the following procedure shall be adopted by the concerned authority.

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no.7. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.7 and 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/or without conversion and/or had been continuing, the authorities may take interim measures by stopping the construction. The allegation of construction without conversion of land to 'Bastu' shall also be looked into by the authority.

- c) The report of such inspection shall be prepared along with a 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 right, title, possession and boundary dispute shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioner and the respondent nos.7. 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 accordance with law.

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

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.)