

S/L 6
13.2.2023
Court. No. 19
sn

W.P.A. 23734 of 2022

Bharat Chandra Kanrar & Anr.
VS
The State of West Bengal & Ors.

Mr. Dilip Kumar Shyamal
Mr. Gourab Ghosh

...for the Petitioners.

Mr. Sayan Ganguly

...for the State.

Mr. Monoranjan Jana
Mr. Radhyashyam Maity

..for the respdts.8&9

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

This writ petition is disposed of on the basis of the
report submitted by the Block Development Officer,
Kakdwip, South 24 Parganas. It appears that the authority
had obtained information from the Upa-Pradhan of Sri Sri
Ramkrishna Gram Panchayat that the petitioners had been
accorded permission for construction, but no permission was
accorded to Subrata Mondal & Others for construction of any
boundary wall.

According to the petitioners, the entire construction
of the respondent nos. 9&10 was without any permission and
the boundary wall constructed by the petitioners had been
treated as a part of the construction of the said respondents.

The dispute with regard to the right, title and interest
are not to be gone into by this Court.

The learned advocate for the respondent nos. 9&10
submits that the petitioners have constructed in excess of the
alleged land belonging to the petitioners and did not leave

adequate side space from the plot of the land enjoyed by the respondent nos. 9&10. These disputed questions of facts have to be decided by the authority concerned.

The petitioners shall file a comprehensive representation before the authority concerned with their allegations. The respondent nos. 9&10 are entitled to file their representation with their respective allegations. Both the representations shall be disposed of in accordance with law.

While doing so, the following procedure shall be adopted:-

- a) Inspections of both the premises shall be conducted. Such inspections shall be held in the presence of the petitioners and the respondent nos.9&10. An advance notice of the inspection shall be served upon the petitioners and the respondent nos.9&10 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 constructions were without permission or in deviation of the plan, and had been continuing, the authorities may take such interim measures by stopping such construction.

- c) Report of such inspections shall be prepared along with the sketch maps, indicating the extent and nature of unauthorized construction, if any.
- d) Such reports shall be handed over to the parties. The questions of right, title, possession and boundary disputes, shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioners and the respondent nos.9&10. The parties must also be allowed to furnish their written objections/versions to the said reports 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) Reasoned orders 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 their logical conclusion in terms of Section 23(5) of the West Bengal Panchayat Act, 1973, in respect of both the construction.

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 date of receipt of the representations.

The learned advocate on record of the petitioners is directed to serve a copy of the writ petition along with a

server copy of this order upon the Sri Sri Ramkrishna Gram Panchayat, Kakdwip, South 24 Parganas.

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.)