

M/L 1
06.02.2023
Court. No. 19
GB

W.P.A. 26540 of 2022

Sanjoy Malik & Anr.
VS
The State of West Bengal & Ors.

*Mr. Debabrata Saha Roy,
Mr. Soumen Bhattacharjee,
Mr. Amal Kumar Datta*

...for the Petitioners.

*Mr. Jahar Dutta,
Mr. Bipin Ghosh*

...for the State.

Ms. Mekhla Sinha

...for the Howrah Zilla Parishad.

Mr. Abhishek Chatterjee

...for the Pradhan.

*Mr. Kushal Chatterjee,
Mr. Tauhid Khan*

...for the Respondent Nos.9 & 10.

For the time being, the grievance of the petitioners will be met if the construction on LR Plot No.464 of Mouza-Andul is demolished on the ground that the said construction is on a pond (classified as a 'Pukur') in the record of rights and the same was both without any conversion and permission from the permission granting authority.

Several rounds of inspections by the Howrah Zilla Parishad has not yet clarified the position whether the existing structure is wholly or partly on Plot No.464.

The Pradhan of Andul gram panchayat is present in Court. She has submitted before the Court that till now the sanction relied upon by the petitioners allegedly granted by the Andul gram panchayat on March 18, 2013, could not be traced from the records.

Thus, the issue with regard to the construction on Plot No.463 can be decided in an appropriate proceeding at a later stage subject to further enquiry by the Pradhan.

The admitted position is that there is no sanction either by the gram panchayat or by the Zilla Parishad with regard to the construction on Plot No.464. It is the specific contention of the petitioners that there has been a construction on Plot No.464 which is unauthorized. The validity of the plan, the competence of the authority to issue the sanction are not decided in this proceeding. The Court restricts its decision to the allegation of an unauthorized construction on LR Plot No.464.

The Block Land and Land Reforms Officer shall cause a demarcation of Plot No.464 in the presence of all the parties, including the panchayat authority and the Zilla Parishad. If any construction or part of construction is found on Plot No.464, a report to that effect shall be prepared and handed over to the parties.

The Block Land and Land Reforms Officer shall cause the demarcation within a period of two weeks from the date of communication of this order. The report shall be prepared within a week thereafter and a copy of such report shall be officially communicated to the District Engineer, Howrah Zilla Parishad by the Block Land and Land Reforms Officer. Thereafter, the District Engineer, Howrah Zilla Parishad shall act and proceed in accordance with law by inspecting the construction on the said plot. A report shall be prepared and handed over to the parties indicating the extent of

unauthorized construction along with a sketch map. The parties will be heard and a reasoned order shall be passed and communicated. Action shall be taken in accordance with law. The District Engineer shall complete the entire exercise within a period of four weeks from receipt of the report.

A copy of the sanction which has been produced before the Court with regard to LR Plot No.463 shall be supplied to the Pradhan of Andul gram panchayat. The Pradhan shall make an enquiry with regard to the said sanction from the records and communicate her findings to the respective parties within a period of eight weeks. While the Pradhan makes an enquiry with regard to the validity of the plan which has been produced before the Court, the Pradhan would be at liberty to interact with the earlier Pradhan and the Secretary of the said gram panchayat to ascertain whether the said plan had been sanctioned as per law by the concerned gram panchayat.

A copy of the plan sanctioned by the Zilla Parishad shall be handed over to Ms. Mekhla Sinha for further enquiry with regard to the validity of the same.

Accordingly, the writ petition is disposed of.

Personal appearance of the Pradhan is dispensed with. The effort of the police authorities is appreciated.

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.)