

S/L 1
11.01.2023
Court. No. 19
GB

W.P.A. 26668 of 2022

Sri Narayan Chandra Das
VS
The State of West Bengal & Ors.

*Mr. S.N. Mukherjee,
Mr. Niraj Gupta,
Ms. Afroja Nusrat,
Mr. Priyabrata Saha*

... for the Petitioner.

*Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata*

... for the State.

*Mr. Bikram Banerjee,
Ms. Dipa Acharyya*

... for the Respondent No.6.

The petitioner alleges that the Sub-Divisional Officer could not have passed the order of demolition of an unauthorized construction over L.R. Dag No.697 corresponding to C.S. Dag No.157, Khatian No.192, J.L. No.25 of Mouza-Bilkanda. A separate plot had been culled out from L.R. Dag No.697 in favour of the petitioner being Plot No.106(P) measuring about 3 decimals. The construction of the petitioner on the said area was permitted by the Bilkanda-I gram panchayat on October 9, 2018.

A copy of such sanctioned plan has been annexed to the writ petition. Such document indicates that a construction of a single storeyed building having a covered residential area of 690 sq. ft. (ground floor) had been sanctioned by the concerned gram panchayat. Such sanction relates to R.S. and L.R. Dag No.106(P) corresponding to L.R. Khatian No.987.

Further contention is that the authorities proceeded against the said construction of the petitioner on the misconception that the petitioner's construction was on L.R. Dag No.697 corresponding to C.S. Dag No.157, Khatian No.192, J.L. No.25 of Mouza-Bilkanda.

The report filed by the Sub-Divisional Officer states that upon spot verification and in consultation with the mouza map and record of rights, it transpired that the allegations were in respect of the L.R. Plot No.106(P) corresponding to R.S. Plot No.57 which has been classified as Bastu having a total area of 4 decimals.

Thus, according to the petitioner, the demolition order which had been passed was in respect of the construction of the petitioner, which was sanctioned by the gram panchayat on L.R. Dag No.106(P) corresponding to L.R. Khatian No.987.

Mr. Banerjee, learned advocate appearing on behalf of the respondent no.6 submits that the report of the Sub-Divisional Officer cannot be relied upon as the same lacked clarity. According to Mr. Banerjee, there is an existing unauthorized construction on L.R. Plot No.697 which was detected by the gram panchayat. He further submits that L.R. Plot No.697 corresponding to C.S. Dag No.157, Khatian No.192, J.L. No.25 of Mouza-Bilkanda measures about 2.07 Cottahs (approximately 4 decimals) so the question of culling out another L.R. Plot No.106(P) from the said plot would not arise.

Mr. Mahata, learned advocate appearing on behalf of the State respondents submits that if the copy of the plan which has been annexed to the writ petition is genuine, in that event, neither this Court nor the panchayat authorities can take further steps with regard to the alleged construction of the single storeyed building measuring about 690 sq. ft. If there is no plan or sanction or there is a deviation, steps may be taken in accordance with law.

In the earlier rounds of litigation, the panchayat authorities found that no sanction had been granted for any construction on L.R. Plot No.697 corresponding to C.S. Dag No.157, Khatian No.192, J.L. No.25 of Mouza-Bilkanda. Accordingly, the Court had directed the matter to be reached to its logical conclusion in terms of Section 23(5) of the West Bengal Panchayat Act, 1973. The Sub-Divisional Officer also directed demolition in terms of the findings of the panchayat authorities.

This writ petition has been filed on the ground that the panchayat authorities and the Sub-Divisional Officer had wrongly proceeded against the construction of the petitioner on L.R. Plot No.106(P) corresponding to L.R. Khatian No.987, although there was a sanction.

The issue is whether L.R. Plot No.106(P) was carved out or created out of the original L.R. Plot No.697. The other issues are with regard to title, correctness of the record of rights and an allegation of unauthorized construction. If the panchayat authorities had sanctioned the aforementioned construction of a single storeyed building measuring about

690 sq. ft. on L.R. Dag No.106(P), the same cannot be touched unless there is deviation. The right, title and interest of the parties in respect of the said land which according to the petitioner forms a part of L.R. Plot No.697, must be decided by the civil court.

However, if there is no sanction in respect of the said construction of the petitioner over L.R. Plot No.106(P) corresponding to L.R. Khatian No.987, J.L. No.25, then steps shall be taken for demolition in respect of the said construction. It is also made clear that if any construction on L.R. Plot No.106(P) is found to be beyond the sanctioned area and in deviation of the sanction, in that event steps shall also be taken for demolition. If there are any other unauthorized constructions on Plot No.697 corresponding to C.S. Dag No.157, Khatian No.192, J.L. No.25 of Mouza-Bilkanda, in that event demolition shall be effected. All the above steps shall be taken upon holding an inspection in the presence of the parties, by the panchayat authorities. Upon coming to a finding after hearing all the parties, the matter will be referred to the Sub-Divisional Officer for further steps under Section 23(5) of the West Bengal Panchayat Act, 1973.

The respondent no.6 shall be at liberty to approach the panchayat authorities for information whether the sanction had been permitted for a single storeyed building measuring about 690 sq. ft on L.R. Dag No.106(P) corresponding to L.R. Khatian No.987.

The respondent no.6 shall also be at liberty to approach the Block Land and Land Reforms Officer and

other authorities for a clarification as to whether L.R. and R.S. Plot No.106(P) pertaining to L.R. Khatian No.987 was created out of the original L.R. Plot No.697 corresponding to C.S. Dag No.157, Khatian No.192, J.L. No.25 of Mouza-Bilkanda. Information with regard to the process by which such bifurcation and/or creation of a sub-plot from the original L.R. plot had been made, shall also be supplied to the petitioner, if the authority is approached.

If the respondent no.6 has already approached the civil court for other reliefs relating to the right, title, interest, boundary dispute and with the allegations of encroachment, those issues shall be decided independently.

It is made clear that the authorities concerned shall not take any step without initiating de novo proceedings as per law and the proceedings shall be reached to its logical conclusion as per law. The earlier proceeding and the order of the Sub-Divisional Officer are set aside. The entire exercise shall be completed within eight weeks from 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 the server copy of this order.

(Shampa Sarkar, J.)