

11.01.2023
Sl. No.38(ML)
srm

W.P.A. No. 27337 of 2022
Aloke Kumar Naskar & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Timir Baran Saha

....for the Petitioners.

None appears on behalf of the respondents. The respondent Nos.5 to 8 have refused service. Postal articles with the endorsement "refused" dated January 4, 2023 have been filed in Court today. Affidavit-of-service along with the track report is also taken on record. This matter is taken up in their absence.

Pursuant to a direction of this Court in WP No.7334(W) of 2017, an inspection on Dag No.1432 corresponding to Khatian No.194, J.L. No.063 of mouza Jangalia had been conducted. The report of the Pradhan of Jangalia Gram Panchayat, South 24-Parganas dated April 20, 2017 indicates that a newly constructed house without a roof existed on the said plot. The report further indicates that no permission had been granted for such construction.

The petitioners approached the Pradhan through their learned Advocate by demanding justice on July 11,

2022. Allegation is that no steps have yet been taken by the concerned panchayat authorities.

The writ petition is disposed of with a direction upon the competent authority of the Jangalia Gram Panchayat, District-South 24-Parganas, to dispose of the demand of justice of the learned Advocate for the petitioners dated July 11, 2022 being annexure P-11 to the writ petition, in accordance with law. While doing so, the gram panchayat shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent Nos.5 to 8, with 48 hours advance notice to the petitioners and the respondent Nos.5 to 8.
- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioners as also the respondent Nos.5 to 8.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without conversion of the land as also without permission and had been continuing, the authorities

may take interim measures by stopping such construction.

- e) A hearing shall be given to all the parties. 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.
- 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 terms of the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

The Court has not gone into the merits of the claim of the petitioner and the issues raised shall be decided by the competent authority of the Jangalia Gram Panchayat, District-South 24-Parganas.

The question of title, possession, encroachment, etc. shall not be gone into.

A copy of the writ petition along with a server copy of this order be served upon the Pradhan, Jangalia Gram Panchayat, District-South 24-Parganas.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)