

16.01.2023
Sl. No.7(DL)
srm

W.P.A. No. 28641 of 2022
Ashok Kumar Giri @ Ashok Giri
Vs.
The State of West Bengal & Ors.

Mr. Debabrata Karan,
Mr. Debopriyo Karan

....for the Petitioner.

Mr. Manas Kundu,
Mr. Subrata Das Gupta

...for the State-respondents.

Despite service, none appears on behalf of the respondent Nos.3, 6 and 7. Affidavit-of-service is taken on record.

As the Court is not inclined to pass mandatory directions as prayed for, but is relegating the matter before the competent authority, the writ petition is taken up in their absence.

The petitioner alleges that the respondent Nos.6 and 7 have raised an unauthorised construction on Dag Nos.441 and 453 pertaining to Khatian No.1 within J.L. No.124 of mouza Dakshin Charaikhiya, District-Purba Medinipur. It is alleged that Dag No.441 is a water body and 13 decimals of land in Dag No.453 is '*bastu*'.

The petitioner has already approached the Haripur No.1 Gram Panchayat by filing a presentation dated April 25, 2022, which is annexure P-4 at page 18 of the writ petition.

Without going into the merits of the allegations made in the writ petition, this Court is of the view that the representation of the petitioner must be disposed of by the appropriate permission granting authority, that is, the Haripur No.1 Gram Panchayat, in accordance with law.

As such, the writ petition is disposed of with a direction upon the competent authority of the Haripur No.1 Gram Panchayat, District-Purba Medinipur, to dispose of the representation of the petitioner dated April 25, 2022 being annexure P-4 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 petitioner and the respondent Nos.6 and 7, with 48 hours advance notice to the petitioner and the respondent Nos.6 and 7.
- 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 petitioner as also the respondent Nos.6 and 7.
- 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 appropriate competent authority.

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, Haripur No.1 Gram Panchayat, District-Purba Medinipur.

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.)