

09.01.2023
Court No. 19
Item no.14
CP

WPA No. 28651 of 2022

Shikha Dolai
Vs.
The State of West Bengal & Ors.

Mr. Raghunath Adhikary
Mr. B. Maity

....for the petitioner.

Mr. Lalit Mohan Mahata
Mr. P. B. Mahata

....for the State.

The writ petition has been filed on the selfsame cause of action as WPA No. 4522 of 2022. The petitioner once again alleges that the construction on L.R. Dag No. 819 pertaining to Khatian No. 2202 of Mouza – Sitapur was without any permission from the panchayat authorities.

Reliance has been placed on a communication of the Pradhan, Goura Gram Panchayat dated September 20, 2021. According to the said communication, although the respondent no. 7 had the permission to construct on the L.R. Plot No. 816, he had constructed a cowshed on Plot No. 819 without any permission from the authority.

The earlier writ petition was disposed of upon perusal of the documents submitted by the learned advocate for the respondent no. 7 which indicated that permission to construct on Dag No. 819,

corresponding to J.L. No. 235, pertaining to Khatian No. 2202 had been granted by the Pradhan, Goura Gram Panchayat. Accordingly, the writ petition was disposed of with the observation that in case any construction was found over and above the sanctioned single-storeyed residential structure, the petitioner would be at liberty to approach the authority, in accordance with law.

The petitioner once again has moved this court with the selfsame allegations.

The Block Development Officer, Daspur-II Development Block called for a report from the panchayat authorities. By a letter dated January 4, 2023, the Pradhan, Goura Gram Panchayat intimated the Block Development Officer, Daspur-II Development Block, that the gram panchayat at its meeting dated April 18, 2022, had granted permission for construction on Dag No. 819 pertaining to Khatian No. 2202, which was classified as 'Bastu' in the land records. Such construction was permitted on an area of 14 decimals of the said plot.

All the documents required for such permission and the copy of the sanctioned plan as also the record of rights, have been submitted before the court. On the last occasion as well, the court had observed that a construction of a single-storeyed

residential building had been permitted on Dag No. 819 pertaining to Khatian No. 2202.

The allegation of the petitioner is misconceived. The petitioner is relying on a document which was issued in 2021, when the pradhan had found some cowsheds on Plot No. 819. Such construction of a cowshed on Dag No. 819 in the past did not attract the provisions of Section 23 of the West Bengal Panchayat Act, 1973.

The writ petition is dismissed as the same is hit by the principles of Res Judicata and also for the reasons as stated above.

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.)