

S/L 12
04.01.2023
Court. No. 19
GB

W.P.A. 28667 of 2022

Syed Bakibillah
VS
The State of West Bengal & Ors.

*Ms. Sweta Mukherjee,
Mr. Soujanya Bandyopadhyay.*

...for the Petitioner.

*Mr. Jahar Lal De,
Ms. Smita Das De.*

...for the State.

*Mr. Somnath Adhikary,
Ms. Chandrima Debnath,
Mr. K. Mondal.*

...for the Respondent No.10.

Affidavit-of-service filed in Court today, be kept with the record.

As the respondent nos.9 and 10 have refused service of the writ petition, the matter is taken up in their absence. The petitioner has alleged that the said respondents have been raising an unauthorized construction on L.R. Dag No.545, pertaining to L.R. Khatian No.891, within Mouza-Dakshin Simla.

It is the specific contention of the petitioner that a two storeyed building was being constructed without conversion and without any permission from the concerned panchayat authority.

Although, the petitioner alleges that the respondents have also encroached the land of the petitioner, such allegation cannot be decided by the panchayat authorities.

The writ petition is disposed of with a direction upon the Khordo gram panchayat to dispose of the representation

of the petitioner dated December 14, 2022 in accordance with law.

While doing so, the following procedure shall be adopted:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.9 and 10. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.9 and 10 and all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.
- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was in deviation of the plan and building rules and had been continuing, the authorities may take such interim measures by stopping such construction.
- c) The report of such inspection shall be prepared along with a sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties. The question of right, title, possession and boundary dispute shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioner and the respondent nos.9 and 10. 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. All points raised by either party, will be decided.

- 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 Section 23(5) of the West Bengal Panchayat Act, 1973.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently, upon hearing the parties.

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