

11.01.2023
Court No. 19
Item no.08
CP

WPA No. 28693 of 2022

Birendranath Maity
Vs.
The State of West Bengal & Ors.

Mr. Iftekar Munshi
Mr. Rishabh Ahmad Khan
....for the petitioner.

Mr. Asish Chandra Bagchi, Sr. Advocate
Ms. M. Maity
...for the respondent no. 9.

Mrs. Anwari Quraishi
Mr. Zainab Tahur
...for the State.

The police report is taken on record.

The petitioner alleges that the construction by the respondent no. 9 on L.R. Plot No. 174 of Mouza – Barisha, J.L. No. 289, was without any sanction from the competent permission granting authority.

According to the learned counsel, even if a civil suit is pending for declaration, partition and permanent injunction, such proceeding would not operate as a bar upon the permission granting authority from taking steps in accordance with law, if the construction was found to be unauthorized.

Mr. Munshi, learned advocate for the petitioner submits that the construction which was unauthorized and without any sanction, should be demolished even if a civil suit is pending as the civil court did not have any power to proceed under the

Panchayat Act with regard to issues of like nature. The civil court shall only decide the title of the parties and pass necessary orders with regard to declaration, partition and injunction.

Such contention of Mr. Munshi is accepted by the court. The issue with regard to unauthorized construction in violation of the Panchayat Act, must be decided by the appropriate permission granting authority.

Mr. Bagchi, learned senior advocate appearing on behalf of the respondent no.9, has produced some documents which indicate that the Additional Executive Officer, Purba Medinipur Zilla Parishad had granted the permission for such construction.

The copy of the permission granted as also the plan have been produced before the court. Such permission was granted on September 27, 2021.

Under such circumstances, nothing further remains to be decided in the writ petition. The interim order of injunction already passed by the civil court will prevail undoubtedly and the issues in the civil suit shall be decided independently.

The writ petition is disposed of without further orders. 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.)