

S/L 14
10.01.2023
Court. No. 19
GB

W.P.A. 28846 of 2022

Utpal Pal & Ors.
VS
The State of West Bengal & Ors.

Ms. Sudipa Sengupta

...for the Petitioners.

*Ms. Jayeeta Sinha,
Mr. Sandip Mandal*

...for the State.

*Ms. Pampa Dey Dhabal,
Mr. Nikhil Kr. Gupta*

...for the Respondent Nos.5 & 6.

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

The petitioners allege that the respondent nos.5 and 6 have been raising a construction on Dag No.309 of Mouza-Belgaria without any permission from the authorities.

The learned advocate for the respondent nos.5 and 6 denies that such construction had been raised on the land in question. Learned Advocate submits that her clients have not raised any construction.

As there is a disputed question of fact as to whether there is any illegal or unauthorized construction on L.R. Plot No.309 of Mouza-Belgaria, this Court is of the view that such allegation must be disposed of by the concerned permission granting authority.

Accordingly, the Balsi II Gram Panchayat shall dispose of the representation of the petitioners dated November 21, 2022, which is at Page-24 of the writ petition.

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 petitioners and the respondent nos.5 and 6. An advance notice of the inspection shall be served upon the petitioners and the respondent nos.5 and 6 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 without permission 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 petitioners and the respondent nos.5 and 6. 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 date of communication of this order.

The petitioners will serve a copy of the writ petition along with a server copy of this order upon the concerned authority.

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.)