

09.01.2023
Court No. 19
Item no.35
CP

WPA No. 29124 of 2022

Mongola Dal
Vs.
The State of West Bengal & Ors.

Mr. Bhagbat Chaudhuri

....for the petitioner.

Ms. Jayeeta Sinha
Mr. Sandip Mandal

...for the State.

Affidavit of service is taken on record.

Despite service, none appears on behalf of the
respondent nos. 5 and 6.

As the court is not inclined to pass any
mandatory order as prayed for, but is relegating the
matter before the authority empowered by law to
decide the issue of unauthorized construction, the
matter is taken up in the absence of respondent no.
6.

The petitioner alleges that the respondent no. 6
is raising an unauthorized construction over L.R. Plot
No. 148 pertaining to L.R. Khatian No. 1495 of
Mouza – Basantapur, without any permission from
the panchayat authorities.

Under such circumstances, without going into
the merit of the claim of the petitioner, the writ
petition is disposed of with a direction upon the

Basantapur Gram Panchayat to dispose of the petitioner' representation dated November 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 no. 6. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 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 was continuing, the authorities may take such interim measures by stopping such construction.
- c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties.

- e) A hearing shall be given to the petitioner and the respondent no. 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. The issue whether at the relevant point of time the panchayat laws were applicable or not, must also be looked into.
- 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.

The court has not gone into the merits of the claims.

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

The disputes with regard to title, possession and boundary etc., shall not be decided by the panchayat authorities. The only question to be decided by the panchayat authorities would be

whether the construction has been made without any permission and/or in violation of the building rules and the relevant laws.

A copy of the writ petition along with a server copy of this order be served upon the concerned gram panchayat for necessary compliance 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.)