

20.02.2023
Court No. 19
Item No.30
CP

W.P.A. No. 29132 of 2022

Kalyani Paul

Vs.

The State of West Bengal & Ors.

Md. Sarwar Jahan

Mr. Maidul Islam Kayal

Mr. Sumit Naskar

...for the petitioner.

Mr. Tarun Kumar Ghosh

Mr. Sk. Musior Rahaman

....for the State.

Ms. Juin Dutta Chakraborty

....for the respondent nos. 11 & 12.

The report filed by the State respondents is taken on record.

The petitioner alleges that the respondent nos. 11 and 12 had raised a construction on L.R. Plot No. 328 of Mouza – Amrajol, without any permission. The petitioner also contends that the land has been classified as ‘sali’ and no conversion had been permitted by the authority.

Learned advocate for the respondent nos. 11 and 12 submits that a small structure had been erected long before, at least six years ago. It also appears that a civil suit is pending being Title Suit No. 312 of 2021.

The writ petition is disposed of permitting the petitioner to file a detailed representation before the concerned gram panchayat. If such representation is filed, the same shall be disposed of in accordance with law. While disposing the representation, the authorities shall follow the procedure stated hereinbelow:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos. 11 and 12. An advance notice of the inspection shall be served upon the petitioner and the respondent nos. 11 and 12 and on 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) A 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 nos. 11 and 12. 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.

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 receipt of the representation.

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

This order shall not have any bearing on the pending civil suit.

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.)