

24.11.2023
Sl. No.45
srm

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

W.P.A. No. 2637 of 2023

Smt. Mousumi Majumdar Biswas

Versus

The State of West Bengal & Ors.

Mr. Kunaljit Bhattacharjee,
Mr. Dipankar Deb

....for the Petitioner.

Mr. Subir Kumar Saha,
Mr. Anirban Banerjee

...for the State-respondents.

Mr. Sudipta Kanta Bhowmik,
Ms. Dipti Bhowmik

...for the Respondent No.8.

Affidavit-of-service is taken on record. It indicates that the service was refused by the panchayat authorities.

The petitioner claims right, title and interest in respect of three decimals of land in mouza Kranti pertaining to LR Plot No.1879, LR Khatian No.2249. The petitioner alleges that the respondent Nos.7 to 9 started a construction, with the help of the respondent Nos.10 to 12, adjacent to the area occupied by the petitioner, without any permission from the competent panchayat authority.

The learned Advocate for the respondent No.8 submits that the plan has been sanctioned by the panchayat authorities.

Mr. Bhattacharjee, learned Advocate for the petitioner insists that the first floor, which is being constructed, does not have any permission.

These factual aspects cannot be gone into by the writ court.

Thus, the Court directs the Kranti Gram Panchayat, to treat the writ petition as the representation of the petitioner and dispose of the same in accordance with law.

While doing so, the permission granting authority shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent Nos.7 to 12, with 48 hours advance notice to all.
- b) A report of the inspection shall be prepared along with the sketch map, indicating the extent of unauthorized construction, if any.
- c) Such report shall be handed over to the petitioner as also the respondent Nos.7 to 12.
- d) In case, it is found on preliminary inspection, that there may be reasons to believe that the construction

was without permission as also in violation of the building rules and had been continuing, the authorities may take interim measures by stopping such construction.

- e) A hearing shall be given to all the parties. 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.
- 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 the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.
- g) After the entire process is over and if the unauthorised construction is detected, the same shall be demolished in accordance with law.

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

The questions of right, title, interest and encroachment etc., shall not be gone into.

The Court has not gone into the merits of the claims and counter-claims of the parties and the issues raised, shall be decided by the competent authority, independently.

A copy of the writ petition, along with a server copy of this order be served upon the Secretary, Kranti Gram Panchayat, Jalpaiguri.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)