

46 09.7.2024
Sc Ct. no.2

WPA 16990 OF 2024

Emani Shaikh & Anr.
Vs.
State of West Bengal & Ors.

Mr. Anindya Bose
Mr. Golam Mohiuddin
Ms. Puja Mondal
Mr. Mridul Biswas.
... For the Petitioners
Mr. Nirmal Kr. Manna
Mr. Pannalal Bandopadhyay.

....For the Respondent
Nos. 1 to 6

Md. Sarwar Jahan
Ms. Tapati Sarkar.
...For the Respondent
Nos. 7 & 8

Mr. Usaf Ali Dewan
Mr. Asif Dewan.
....For the Respondent
Nos. 9 to 11

Affidavit-of-service, filed in Court today, is taken on
record.

Mr. Anindya Bose, learned advocate appears for the
petitioners.

Mr. Pannalal Bandopadhyay, learned State
advocate appears for the respondent nos.1 to 6.

Ms. Tapati Sarkar, learned advocate led by Mr.
Sarwar Jahan, learned advocate appears for the
respondent nos. 7 and 8.

Mr. Usuf Ali Dewan, learned advocate appears for the respondent nos. 9 to 11.

The petitioners complain of an alleged unauthorized and illegal construction on the subject piece of land at the behest of the private respondents. Relying upon a report dated **April 20, 2024** issued by the jurisdictional Revenue Inspector at **page 30** to the writ petition, learned advocate for the petitioners submits that, the alleged unauthorized construction has been confirmed. The petitioners submitted a representation dated **June 25, 2024, Annexure-P7 at page 32** to the writ petition before the Pradhan of the concerned Panchayat and the same has not been considered.

Learned counsel appearing for the private respondents referring to the same report at **page 30** to the writ petition, relied upon by the petitioners, submits that, the report was based on the basis of a survey conducted by the private surveyor of the petitioners' choice. The private respondent nos. 9 to 11 are not the owners of the land. He submits that, about **23** individuals are the joint owners of the subject piece of land.

Considering the rival contentions of the parties and considering the materials on record, the Pradhan of the concerned Panchayat is directed, upon issuing a prior notice to the petitioners, the private respondents and all other interested parties to cause a physical inspection of

the alleged unauthorized and illegal construction and shall consider the said representation of the petitioners dated **June 25, 2024**, as referred to above, by passing a reasoned order in accordance with law.

While considering the representation, the Pradhan may request the jurisdictional Land Officer to produce the land records, if he thinks fit and proper.

The entire exercise as directed above, shall be carried out and completed by the Pradhan of the concerned Panchayat positively within a period of **twelve weeks** from the date of communication of this order. The Pradhan then shall communicate the reasoned order to the petitioners, the private respondents and all other interested parties positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the rival claims of the parties. The petitioners, the private respondents and all other interested parties shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the Pradhan of the concerned Panchayat but the same shall not travel beyond the scope of the said representation dated **June 25, 2024**.

In the event, the reasoned order confirms the alleged unauthorized and illegal construction, the

Pradhan of the concerned Panchayat positively within a period of **seven days** from the date of the communication of the said reasoned order to the parties shall transmit the same and refer the matter before the jurisdictional **Sub Divisional Officer** in terms of **Sub Section (5) to Section 23** of the **West Bengal Panchayat Act, 1973**.

The jurisdictional **Sub Divisional Officer** then shall take all necessary and consequential steps to give an immediate effect to the said reasoned order expeditiously without any delay in accordance with law.

It is made clear that, this order shall not create any right or equity in favour of the petitioners, if the petitioners are not eligible to receive their claim in terms of the said representation dated **June 25, 2024** in accordance with law.

The petitioners shall serve a copy of this order upon the jurisdictional **Block Development Officer** who shall ensure that, the direction of this Court is carried out and complied with by the Pradhan of the concerned Panchayat.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions this writ petition, **WPA 16990 of 2024** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for,
be furnished expeditiously.

(Aniruddha Roy, J.)