

07-02-2024
Item No.30
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.23572 of 2023
Lakshnmikanta Naskar & Ors.
-vs-
The State of West Bengal & Ors.

Ms. Tanushree Dasgupta ...for the petitioners

Ms. Kakali Naskar ...for the State

Ms. Mekhla Sinha
Ms. Malabika Roy Dey ...for the Zilla Parishad

Mr. Soumyajit Bhatta
Ms. Dipika Das ...for respondents no.9-11

The order dated September 8, 2023 passed by the District Engineer, Howrah Zilla Parishad allegedly in compliance of the direction passed by this court in WPA No.2287 of 2023 (Lakshmikanta Naskar & Ors. vs. The State of West Bengal & Ors.) is impugned in the present writ petition.

The contention of the petitioners is that they were not provided an opportunity to file written submission at the time of consideration of their case before the authority. The Howrah Zilla Parishad ought to have taken into consideration the documents placed by the private respondents relying upon which the construction has been made. Specific contention is that there is no supporting document based upon which the construction could have been made.

Learned advocate representing the private respondents refers to the impugned order and submits that it has been clearly recorded that the G+1 storied

building has been constructed by the private respondents after obtaining sanctioned plan from the concerned Gram Panchayat in the year 2013. The plinth area and the height of the building is such that sanction is to be obtained from the Gram Panchayat, and the Howrah Zilla Parishad does not have any role to play in the matter of sanctioning plan.

Upon hearing the respective submissions made on behalf of the parties and upon perusal of the impugned order, it appears that a title execution case is pending consideration before the learned civil court. A dispute has been raised by the petitioners with regard to the place where the construction has been made. The petitioners contend that the construction has been made over the private land of the petitioners. The aforesaid contention is vehemently denied by learned counsel representing the private respondents.

In view of the allegations and counter-allegations made by the parties with regard to the ownership of the land in question and the nature of construction that has been made, it will not be proper to direct the official respondents, that is, the Gram Panchayat or the Zilla Parishad, to adjudicate the issue. The Zilla Parishad has already arrived at a finding and has opined that the Panchayat is the appropriate authority to take a decision. At this stage, upon such disputed questions of facts, it will not be proper for the Panchayat to enter into the dispute for adjudication of the same.

In view of the above, the court is not inclined to interfere with the order impugned. The writ petition fails and is hereby dismissed.

The parties will be at liberty to approach the learned court below where the execution proceeding is pending for redressal, if so advised.

Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]