

10.01.2024
Item No13
gd/ssd

WPA/60/2024
KISHAN SINGH SHANKER @ HEM KUMAR SHANKAR
VS
THE DISTRICT MAGISTRATE, KALIMPONG & ORS.

Mr. Pratap Khati,
Mr. S.C.Lepcha
..for the petitioner.

Mr. Momenur Rahman,
Ms. Pratusha Dutta Chowdhury
..for the State.

Mr. Debanjan Das,
Mr. Sagar Chettri,
Mr. Dipankar Deb
..for the respondent nos. 5 and 6.

The petitioner alleges that the private respondent is carrying on illegal construction in LR Plot nos. 50 and 51, Mouza Pudung Khasmahal under P.S. Kalimpong.

The petitioner submitted a notice through his learned Advocate dated 30th December, 2023 requesting the respondent authority to take steps against the unauthorized construction which is being carried on by the private respondent.

On a query of the Court as to whether the private respondent is carrying on construction, Mr. Das submits that he has to take instructions from his client.

It appears from the record that the Prodhan of Pudung Gram Panchayet being the respondent no.4

issued a notice dated November 13, 2023 directing the private respondent to stop illegal and unauthorized construction on the said plot.

It further appears from the said notice that during joint verification it was found that the house was constructed in the disputed land without any permission or approval of plan by the concerned Gram Panchayet.

Since an allegation of unauthorized construction has been made by the petitioner before the Prodhan of the concerned Gram Panchayet and the Panchayet authority upon physical verification of the spot has observed that such construction was made without any permission or approval from the concerned Gram Panchayet, this Court is of the considered view that the Panchayet authority should be directed to take a decision on the complaint lodged by the petitioner vide the letter dated December 30, 2023 in accordance with law.

Mr. Das, Learned Advocate appearing for the private respondent nos.5 and 6 submits that a Title suit being no.5 of 2020 is pending before the Civil Judge, Junior Division at Kalimpong between the parties, and therefore, the Writ Court should not entertain this writ petition.

Section 23 of the West Bengal Panchayet Act, 1973 deals with control of building operations within

the jurisdiction of a Gram Panchayet. The Gram Panchayet is under a statutory obligation to control the building operations within its jurisdiction.

Since a complaint of illegal and unauthorized construction has been made before the Gram Panchayet and Panchayet authority upon physical verification of the plot in question has observed that construction has been made on the plot in question without obtaining permission and approval of the Gram Panchayet, this Court is of the considered view that pendency of a civil suit between the private parties cannot be a ground for Panchayet authorities to shut its eyes over a complaint of unauthorized and illegal construction within its jurisdiction.

WPA 60 f 2024 is disposed of by directing the Pudung Gram Panchayet to initiate a proceeding in terms of Section 23(6) of the West Bengal Panchayet Act, 1973 and conclude the same in accordance with law as expeditiously as possible but positively within a period of six weeks from the date of receipt of the server copy of this order.

(HIRANMAY BHATTACHARYYA, J.)