

S/L 23
05.09.2022
Court. No. 19
GB

W.P.A. 12525 of 2022

Subrata Chatterjee & Ors.
VS
The State of West Bengal & Ors.

*Mr. Rudradeb Chaudhuri,
Mr. K.N. Jana.*

... for the Petitioners.

*Mr. Uttam Banerjee,
Mr. Arunesh Pathak,
Mr. Aniruddha Singha Roy,
Mr. Haripada Chatterjee.*

... for the Respondent Nos.4 to 8.

Affidavit-of-service filed in Court today, be kept with the records.

The petitioners allege construction without any sanction. The petitioners submit that in respect of the self-same property, a civil suit is pending and there is an order of status quo. The construction has been raised in violation of the order of status quo.

Reply under the Right to Information Act has been relied upon before this Court, inter alia, indicating that the panchayat authority had intimated the petitioner that no permission has been granted by the panchayat authority for any construction either on Plot No.2722 or on Plot No.2723 of Mouza-Koikala.

The issue with regard to the violation of the order of status quo, shall be decided by the competent civil court. This Court cannot decide whether there has been any illegal construction or not. The same has to be decided by the appropriate authority under the law. The right, title and

interest of the parties should not be decided. The issue for determination shall be restricted only to the allegation of construction without a sanction from the competent authority.

The writ petition is disposed of with a direction upon the Koikala Gram Panchayat, to consider the representation of the petitioners dated February 28, 2022 and dispose of the same in accordance with law.

While disposing of the complaint, the following procedure shall be adhered to:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos.4 to 9 within three weeks. Advance notice of the inspection shall be served upon the petitioner and all the respondents. If the parties are not available to accept notice, the authorities shall affix the notices of hearing and inspection at conspicuous places in their 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) The 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 petitioners and the respondent nos.4 to 9. 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, shall 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, 1973.

This Court has not gone into the merits of the claims and counter-claims of the parties. The entire issue shall be decided by the concerned authority, independently.

The entire exercise shall be completed within a period of four months from the date of communication 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 learned advocates' communication.

(Shampa Sarkar, J.)