



17.1.2023
Sl.No.1
Ct.19
sn

WPA 26540 of 2022

**Sanjoy Malik & Anr.
Vs.
The State of West Bengal & Ors.**

**Mr. Debabrata Saha Roy
Mr. Soumen Bhattacharjee
..for the petitioners**

**Mr. Jahar Dutta
Mr. Bipin Ghosh
..for the State**

**Ms. Manjuli Chowdhury
Ms. Mekhla Sinha ..for the Zilla Parishad**

**Mr. Kushal Chatterjee
Mr .Tauhid Khan
..for the respdts.9&10**

Liberty is granted to the learned advocate on record for the petitioners to add the Block Land& Land Reforms Officer, Sankrail, Howrah as a party respondent to this proceeding, here and now. Mr. Dutta, learned advocate for the State respondents shall accept the notice on behalf of the said authority.

The District Engineer, Howrah Zilla Parishad is present in Court today with his report. His personal appearance is dispensed with. The report be taken on record.

According to the District Engineer, Howrah Zilla Parishad, Andul Gram Panchayat did not have any authority to sanction the construction of a G+1 storeyed building in favour of respondent nos. 9 &10, in 2013. Not only are the height and the plinth area of



the building above the prescribed limit, but the area within which the construction had been made, fell within the jurisdiction of the zilla parishad, since 2005.

According to the inspection report, the construction appears to be around seven years old. At the relevant point of time, the zilla parishad was not only the vetting authority, but also the permission granting authority in terms of the power vested in it by the Kolkata Metropolitan Development Authority in terms of West Bengal Town and Country Planning Act. It has been categorically stated that plot no. 464 has been classified as “Pukur”. However, the authorities have not been able to ascertain whether the construction is spread over plot no. 464 as well.

Mr. Saha Roy, learned advocate for the petitioners submits that for the time being, the construction on plot no. 464 should be demolished as the classification of the land continues to be “Pukur”.

Mr. Chatterjee, learned advocate for the respondent nos.9&10 submits that as the report is not clear and no demarcation between plot nos. 463 and 464 had been effected, direction for demolition cannot be passed at this stage.

Records reveal that the authorities require a further detailed survey in order to demarcate plot no. 464 which continues to be classified as “Pukur”.



Admittedly, Rule 26 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004, provides that the panchayat authority does not have any power to sanction any plan for construction on any land which had not been converted to “Bastu”.

Under such circumstances, if there is any construction on plot no.464, the same must be demolished, in accordance with law, by the zilla parishad.

The panchayat authorities have not appeared before this Court with their records. The panchayat authorities are required to answer the question as to whether permission in terms of Rule 17 had been sought for, whether the matter was referred to the zilla parishad for vetting or for permission and if not, whether the gram panchayat had granted the permission in accordance with law as per its record, upon receiving fees for grant of sanction.

The Inspector In Charge, Sankrail Police Station shall ensure the presence of the Pradhan, Andul Gram Panchayat through a learned Advocate, with all documents before this Court on **February 6, 2023** when the matter shall appear in the list as item no. 1 at **10-30 a.m.**

A demarcation of plot no.464 shall be made by the Block Land & Land Reforms Officer, Sankrail, Howrah and a report be placed before this Court on



the next date of hearing. The Block Land & Land Reforms Officer, Sankrail, Howrah after effecting demarcation shall mention the following particulars in the report.:-

a) Whether the plot no. 464 which is a 'pond' in the record of rights measuring about 0.91 acres continues to remain the same as it was in the past.

b) Whether any construction has been made on plot no. 464.

On the next date, the respondent nos. 9&10 shall produce the sanctioned plan and the permission in original granted by the Andul Gram Panchayat.

The Zilla Parishad submits that no permission had been granted by them and the panchayat could not grant permission. Unless the gram panchayat can establish that the construction was either vetted by the zilla parishad or permitted by the zilla parishad, no further construction can take place.

Further inspection shall be made by the District Engineer, Howrah Zilla Parishad in order to ascertain whether the construction was raised strictly in compliance with the plan allegedly sanctioned by the Andul Gram Panchayat. Further report be filed on the next date.



The learned advocate on record for the petitioners is directed to serve a copy of the writ petition along with a server copy of this order to the Inspector In Charge, Sankrail Police Station for onwards transmission to the Pradhan, Andul Gram Panchayat.

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

(Shampa Sarkar, J.)