

Sl. No.62
04.12.2023

Court No.24
BM

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 12556 of 2023

Runa Roy & Ors.

Versus

The State of West Bengal & Ors.

Mr. Mrinal Kanti Ghosh,
Mr. Mauli Nath Mukherjee

... for the Petitioners

Mr. Saurav Chaudhuri
Mr. Sukla Das Chandra

... for State

The petitioners allege unauthorized construction at the behest of the private respondents over their private land.

The issue of unauthorized construction was considered and decided by the Sub Divisional Officer on 30th March, 2023 and the reasoned order is impugned herein.

The Sub Divisional Officer was of the opinion that as the construction was made under the PMAY(G) Scheme, accordingly, the same is exempted from permission to be obtained under proviso to Rule 19 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004 as amended in 2006. The housing programme does not stipulate any model plan, drawing lay out, sketch because beneficiaries are allowed to add their own contribution to the amount granted by the Government.

The Sub Divisional Officer was of the opinion that the construction is not illegal or unauthorized.

It appears that the SDO took into consideration the record of rights produced by the petitioners. The SDO did not decide upon the title of the property.

Learned advocate representing the private respondent submits that his clients are in occupation over the subject plot of land for more than two decades. A Suit has been filed before the learned Court below claiming adverse possession which is pending consideration.

Learned advocate representing the State respondents submits that the Sub Divisional Officer has passed a reasoned order after hearing all the parties. Prayer has been made for dismissal of the writ petition.

Upon hearing the parties it appears that the issue right now to be decided is whether the private party could have raised construction over a plot of land which is yet to be recorded in their name.

Admittedly, as on date the name of the predecessor-in-interest of the petitioners is recorded in the record of right. The Suit claiming adverse possession is pending. The SDO rightly refrained from deciding the issue of ownership.

It will be open for the parties to obtain necessary order from the learned civil forum declaring ownership of

the property. The construction in question shall abide by the order to be passed by the learned Civil Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)