

Court No. 24

02.03.2021

(Item No. 136)

(AB)

W.P.A 5175 of 2021

Radhakanta Porel & Anr.

vs

The State of West Bengal & Ors.

Mr. Kushal Chatterjee

Mr. Prasayan Mukherjee

..... for the petitioners

Mr. Sk. Md. Galib

Mr. Subhra Nag

..... for the State

None appears on behalf of the Panchayat and the private respondents. Affidavit of service filed in Court today is taken on record.

The grievance of the petitioners is that the Pradhan of the Banibon Gram Panchayat is illegally and arbitrarily constructing a guard wall by the side of the pond at Mouza - Banibon, Sabek Dag No. 898, Khatian Sabek No. 348 corresponding to L.R. Dag No. 353, Police Station Uluberia, District Howrah.

According to the petitioners, the pond in question is the subject matter of Title Suits being T.S. No. 125 of 2016 and T.S. No. 279 of 2016 that are pending consideration before the learned Civil Judge, (Junior Division), Uluberia.

The specific contention of the petitioners is that there is an order of status quo in respect of the pond in question and the Pradhan is constructing the guard wall without any authority of law.

The petitioners submit that the objection which was made by the petitioners and sought to be served upon the Pradhan through post, has returned without the same being delivered to the addressee.

As none appears on behalf of the Pradhan the Court cannot appraise the fact about the authority of the Pradhan to construct guard wall around a private water body.

In view of the above, the instant writ petition is disposed of by directing the Pradhan of the Banibon Gram Panchayat being the respondent No. 3 herein to consider the objection of the petitioners with regard to the construction of the guard wall by the side of the pond, thereby changing the nature and character of the pond, after giving an opportunity of hearing to all the necessary parties, including the petitioners, within a period of eight weeks from the date of communication of a copy of this order and communicate the reasoned order to the parties immediately thereafter.

The petitioners shall forward the objection prepared by them to the Pradhan of the said Gram Panchayat at the time of communicating the order of the court, who will consider the same in accordance with the direction given herein above.

It is made clear that the Pradhan will not enter into and decide the private disputes in between the

parties and will only restrict the consideration with regard to the construction of the guard wall by the side of the pond.

As it appears that there is already an order passed by the competent Court directing maintenance of status quo with regard to nature and character of the Suit property, accordingly the Pradhan is restrained from making any further construction of the guard wall by the side of the pond, till a decision is taken by him upon consideration of the objection of the writ petitioners.

W.P. 5175 of 2021 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)