

08.09.2021
Court No. 19
Item no.05
CP

WPA 8207 of 2021

Abdul Hai Gazi
vs.
The State of West Bengal & ors.

Mr. Hafizur Rahaman
Mr. Milon Nandi

....for the petitioner.

Mr. Santanu Kumar Mitra

...for the State respondents.

None appears on behalf of the panchayat authorities as also the respondent nos. 4 to 11.

The allegations are that the respondent no. 4 to 11 have been constructing on the plot being No. 812, Mouza – Khanpur, J. L. No. 110/112, P.S. Usthi, South 24-Parganas and thereby blocking the passage which has been used by the petitioner for over 25 years. The construction is going on without any sanction from the panchayat authorities. Further allegation is that the petitioner has purchased the said property but the respondent nos. 4 to 11 have encroached upon the same. It is further submitted that an order of status quo has been issued by a civil court with regard to the nature and character of the property in question. It is the submission of the petitioner that the respondent nos. 4 to 11 have

blocked the ingress and egress to the property of the petitioner.

Mr. Mitra, learned advocate appearing for the State respondents, submits that the dispute is civil in nature. He refers to the representation made by the petitioner from which it appears that the only contention of the petitioner before the authority is that the passage has been blocked and the easementary right of the petitioner which the petitioner has enjoyed for over 25 years has been denied.

Having heard the learned advocates for the respective parties, this court finds that the allegations of encroachment upon the land of the petitioner, the title of the petitioner by purchase are all subject matters of a civil suit and an order of status quo has already been passed. Thus any allegation of denial of title, encroachment, disturbance to the possession of the petitioner should be raised before the civil court where the title suit is pending. Such disputes between the petitioner and the respondent nos. 4 to 11 cannot be adjudicated by a writ court.

The petitioner is at liberty to approach the civil court by filing appropriate application.

This order shall not be construed as a ratification or a clearance to the nature of

construction made by the respondent nos. 4 to 11 and the same has not been decided.

Allegations against the police authorities are deemed to be denied as no affidavit has been called for.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)