

14.09.2021
Sl. No.12
srn

W.P.A. No. 8574 of 2021
Himangshu Sekhar Pati
Vs.
The State of West Bengal & Ors.

Mr. Purnasis Bhuniya
...for the Petitioner.

Mr. Bharat Chandra Simai
...for the Respondent No.14.

Mr. Bipin Ghosh
...for the State-respondents.

Despite service none appears on behalf of the Pradhan of Tanua No.5 Gram Panchayat, District-Paschim Medinipur. Affidavit of service is taken on record.

The petitioner alleges that the Panchayat authorities of Tanua No.5 Gram Panchayat has refused to accept the complaint of the petitioner in respect of the illegal and unauthorised construction allegedly carried on by the respondent Nos.13 to 16.

It is contended that the construction has been made on a part of Plot No.148 under Mouza-Mundi Gobra measuring about 40 decimals in the southern side. According to the petitioner, in the deed of sale by which the petitioner acquired title, a *khal* and *rasta* have been mentioned. The *rasta* is used by the petitioner for ingress and egress to his agricultural land. It is contended that the respondent Nos.13 to 16 have

constructed on the said pathway thereby not only encroaching into a portion of the land of the petitioner but also blocking the ingress and egress of the petitioner.

A representation/complaint was lodged before the all authorities including the Pradhan, Tanua No.5 Gram Panchayat.

Mr. Simai, learned Advocate appearing on behalf of the respondent No.14, submits that the construction has been going on exclusively on the land of the respondents, from the funds received under the Pradhan Mantri Awas Yojana and there has been no blockage or disturbance to the easementary right of the petitioner.

In the representation made by the petitioner, the petitioner has alleged encroachment and also blockage of the pathway used by the petitioner for ingress and egress.

The Court is of the opinion that when both the parties are claiming title over the area on which the alleged construction is going on, the Panchayat authorities cannot decide such issue. Thus, the petitioner is granted liberty to approach the Block Land and Land Reforms Officer, Mohanpur Block for demarcation of his land on the basis of the land records and deeds of the petitioner with the help of an Amin. The costs shall be borne by the petitioner. If the petitioner approaches the concerned authority, then a date

shall be fixed for a joint inspection. The petitioner and the representative of the respondent Nos.13 to 16 shall be present during such inspection. A report shall be prepared and supplied to the parties and demarcation shall be made. However, the Panchayat authorities will ensure that no illegal construction takes place in deviation of the drawing/plan that has been prepared by the competent authority for alleged construction of the respondent Nos.13 to 16 under the Pradhan Mantri Awas Yojana and take steps in accordance with law upon hearing the parties.

The concerned Block Land and Land Reforms Officer shall cause the demarcation within a period of eight weeks from the date of receipt of the petitioner's representation.

If it appears that there are boundary disputes upon such inspection, the petitioner shall be at liberty to approach the appropriate forum on the basis of the report of the Block Land and Land Reforms Officer. It is also made clear that the access to the agricultural land should not be blocked, if it is found that the said area falls within the purchase land of the petitioner upon such demarcation.

The writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)