

Sl.no.13
8.12..2021.
Court. No. 19
sn

WPA 13879 of 2021

Mahadeb Chaulay
Vs.
The State of West Bengal & Ors.
(Through Video Conference)

Mr. Animesh Paul ... for the Petitioner

Mr. Gausul Alam
Md. Yusuf Ali ..for the State

Ms. Manjuli Chowdhuri
Ms. Mekhla Sinha ..for the Zilla Parishad

Mr. Joy Chakraborty
Ms. Sandip Dinda ..for the respondent no.8

This writ petition has been filed alleging unauthorised construction by the respondent no.8. It is the contention of the respondent no.8 that the respondent no.8 had filed a suit for declaration and injunction and by an order dated August 19, 2021, the learned Civil Judge, Junior Division, First Court at Howrah passed an order of injunction restraining the defendants from causing any interruption of the peaceful possession, enjoyment and smooth running of the business of the plaintiff/respondent no.8 over the suit property and from demolishing any portion of the suit in any manner till September 15, 2021.

It is informed that the said ad-interim order has been extended up to December 21, 2021. The order

and the plaint filed before this Court, are taken on record. The Suit Court has passed an order of injunction restraining the defendants from demolishing any structure or the suit property in any manner whatsoever. This expression would also mean manner prescribed under the relevant statute.

The petitioner prays for a direction upon the District Engineer to initiate demolition proceeding against the respondent no.8.

It is true that the question of unauthorised construction and demolition thereof are to be looked into by the authority who granted the permission under the relevant provisions of the Panchayat Act, but in view of the order passed by the Civil Court an order of demolition cannot be passed by this Court.

The remedy of the petitioner would be to challenge the order of the Civil Court in accordance with law.

A report has been filed by the Sub-Divisional Officer, Sadar, Howrah, from which it appears that an enquiry was made on the basis of the complaint of the writ petitioner.

This order will not prevent the Zilla Parishad from making any enquiry with regard to the correctness of the allegation of unauthorised construction allegedly raised by the respondent no.8

on premises no. Mouza Bally, J.L. No.14, Khatian no. 4270, Dag No. 7567, Sastitala, Ghoshpara, Bally, Anandanagar, Police Station Nischinda(formerly under Bally) District Howrah. An inspection shall be made in the presence of the parties and a report shall be prepared and served upon the parties.

The petitioner shall be at liberty to approach the Civil Court for appropriate modification and also challenge the ad-interim order in accordance with law.

The writ petition is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)