

30.11.2021.
Court No.13
Item No. 34

pk

**W.P.A. No. 16982 of 2021
(Through Video Conference)**

**Balaram Adhikari
Versus
The State of West Bengal & Ors.**

Mr. Lakshminath Bhattacharya
...For the petitioner.

Md. Galib,
Mrs. Subhra Nag
...For the State.

Mr. Bapin Baidya
... for the respondent no. 11.

Mr. Arijit Sarkar
... for the respondent no. 12.

The writ petitioner is aggrieved by what he calls overaction of the police.

The Officer-in-Charge, Mathurapur Police Station has submitted a report in the form of instruction dated 07.11.2021 to the learned Government Pleader, which is taken on record. It appears that the dispute between the petitioner and the private respondents relates to a portion of land, which the petitioner claims. It further appears that a portion of the said land is being used by the private respondents to access their own land and also by the local villagers to access the main road.

There appears to be a mass petition by the villagers to the local Panchayat to make the pathway concrete.

The petitioner however submits that he has an exclusive right to the entirety of the land and submits the claim for a pathway over that land is illegal.

This Court notes that the dispute is primarily civil in nature and a writ Court does not have any jurisdiction to enter into such civil dispute except to ensure that there is no breach of peace or public inconvenience.

In that view of the matter, parties may approach a civil forum to assert and establish their rights in accordance with law over the alleged pathway.

If the civil forum is approached, the said forum shall proceed to adjudicate upon the matter being uninfluenced by any observation made hereinabove, or any report of the police. The civil court shall pass an appropriate order on the basis of its own enquiry.

It is made clear that the police shall in no way interfere in the aforesaid dispute between the petitioner and the private respondents. Until an appropriate clarification and order of a civil court, the private respondents and the villagers shall be entitled to use the land and any obstruction created by the petitioner shall be removed without prejudice to the rights and contentions of the parties.

With the aforesaid observations, the writ petition is disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)