

Item No. 2

21.01.2021
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(Via Video Conference)

WPA No. 26326 of 2018
Jamal Mondal @ Jamaluddin Molla
v.
The State of West Bengal & Ors.

Mr. Supratim Laha
... for the petitioner.

Mr. Abdul Hamid
Mr. Syed Shahen Shah
... for the respondent no. 9.

The petitioner in the instant writ petition has prayed for a direction upon the respondent authorities particularly the Pradhan of the concerned Gram Panchayat to recommend for assistance of the police authorities for immediate conclusion of the construction as under the Biswa Bangla Abas Yojona in the land allotted in terms of the decree passed in T.S. No. 44/85.

At the time of hearing of the instant writ petition an objection has been raised by the private respondents. It has been submitted that the petitioner had earlier filed a writ petition before this Court praying for similar relief. An order dated September 12, 2018 passed in WP 10472(W) of 2018 (Jamal Mondal @ Jamaluddin Molla v. The State of West Bengal & Ors.) has been placed before

this Court. On perusal of the order it appears that the allegations made by the petitioner in the instant writ petition and the earlier writ petition are more or less the same. In the earlier writ petition the Court categorically observed that the dispute involved is primarily civil in nature and the parties may agitate their rights in further proceeding before the Civil Court. The Officer-in-Charge of the Kulpi Police Station has been directed to ensure that there is no breach of peace in the locale. The order further records that a partition suit being T.S. No. 44/85 between the parties was decreed on August 30, 2005 and the partition of the property was allowed.

It appears that the petitioner has filed the instant writ petition just to bypass the order which was passed in the earlier writ petition. The Court specifically directed the writ petitioner to seek execution of the partition decree and appropriate orders from the Civil Court and asserts their rights thereunder.

In view of the above the petitioner is directed to seek execution of the partition decree and appropriate relief from the Civil Court.

WPA No. 26326 of 2018 stands dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)