

AD. 8.
January 22, 2021.
MNS.

W. P. A. 8175 of 2020
(**Via video conference**)

Ashokarani Paul
Vs.
The State of West Bengal and others

Mr. Asis Bhattacharyya

... for the petitioner.

Mr. Ashim Kumar Ganguly,
Ms. Sukla Das Chandra

...for the respondent-authorities.

Mr. Soumyajit Mishra

...for the private respondents.

Affidavit-of-service filed in Court today be
taken on record.

The petitioner is aged about 71 years and
has been attempting to build a mud hut on a
property, which was occupied by her allegedly for
quite a long time, upon receiving funds under the
relevant Pradhan Mantri Awas Yojana covering
such purposes. However, the Pradhan of the
local Panchayat issued a stop-work notice and
requested the petitioner to meet the Pradhan for
resolution of a dispute, apparently raised by
others. The said notice, annexed at page- 13 of

the writ petition, further requested the petitioner to stop the work of construction till such resolution was reached.

Learned counsel appearing for the petitioner submits that the petitioner, in spite of being aged and indigent, had to approach the police authorities for granting her assistance in completing the construction/repair work regarding her mud hut, but to no effect.

Learned counsel for the respondent-authorities submits that, during enquiry, it was revealed that the land on which the petitioner is trying to build her construction is “inherited, undivided and undemarcated”. However, a police case was started, on the basis of the allegations of the petitioner, under Sections 144/107 of the Code of Criminal Procedure.

A report to that effect is filed in Court today, which may be kept on record.

It is further submitted by learned counsel for the respondent-authorities that the present writ petition has been filed merely for grant of police help during “repair” of the house of the petitioner, damaged in the ‘Amphan’ cyclone. As such, the legality of the Pradhan’s notice cannot be gone into.

Learned counsel appearing for the private respondents submits that the private respondents are co-owners of the petitioner in respect of the plot-in-question. It is further alleged that the petitioner is trying to make the construction-in-question on an area beyond the portion occupied by her, thereby prejudicing the right, title and interest of the private respondents in the property.

Upon a consideration of the materials on record, I am of the opinion that the Panchayat Pradhan had no business to issue a stop-work notice to the petitioner, merely on the ground that there were certain vague allegations by third parties. It is the civil court, and not the Pradhan, which has the authority to adjudicate upon the civil rights of parties. Thus, a dispute of title, even if raised, cannot justify a stop-work notice by the Pradhan.

As such, the notice dated August 26, 2020 is bad in law. There is sufficient power vested in the writ court to mould the reliefs sought by the petitioner in view of the allegations made therein and the contentions of the parties.

The relief sought in the present writ petition, to be granted, requires the veracity of the

Pradhan's notice to be gone into as well. Hence, appropriate orders can be passed regarding such stop-work notice even within the periphery of the pleadings of the present writ petition.

Moreover, since the limited prayer in the writ petition is for the petitioner to undertake repair work of the house already owned by the petitioner, damaged due to the Amphan cyclone, such repair cannot create any permanent rights in respect of the petitioner in any event.

In such view of the matter, W. P. A. 8175 of 2020 is disposed of by directing the respondent no. 5 to provide adequate protection to the petitioner to complete the repair work in respect of her existing house at the plot-in-question.

The notice dated August 26, 2020, annexed at page- 13 of the writ petition, issued by the Pradhan, Kulli Gram Panchayat, Kandi, District- Murshidabad, is set aside.

However, it will be open to the petitioner as well as the private respondents to approach the competent civil court, if they so feel, to vindicate their right, title and interest in the property and/or to seek appropriate ancillary relief in that behalf.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)