

21.09.2022
Court No. 19
Item no.82
CP

W.P.A. No. 1944 of 2022

Asish Dey & anr.

Vs.

The State of West Bengal & Ors.

Mr. Dyutimoy Paul

.....for the petitioners.

Mr. Bharat Ch. Simai

....for the respondent no. 6.

Mr. Malay Singh

Ms. Neelam Singh

...for the State.

The petitioners allege that the respondent nos. 6 to 8 had blocked a culvert constructed by the authorities of Panchrol Gram Panchayat on L.R. Dag Nos. 222 and 395 at Village –Panchrol, Egra –1 Block. It is submitted that the drainage canal which had been excavated and was running through the said plots belonged to the panchayat authorities and the same had vested in the gram panchayat as per Section 42 of the West Bengal Panchayat Act, 1973.

Learned advocate for the respondent no. 6 submits that the alleged drainage canal and culvert were on private lands of the respondent nos. 6 to 8 and no construction of any sewerage had been made by the panchayat authorities through the said lands.

He submits that the dispute was private in nature, and the writ petition is not maintainable. It is further submitted that the construction of the houses was made under the PMAY (G) Scheme.

The correctness of the allegations have not been gone into, as the writ petition is lacking in material particulars. Whether any sewerage line had been laid through the L.R. Dag Nos. 222 and 395 at Village –Panchrol, by the panchayat authorities or not, is to be decided on the basis of the records.

Under such circumstances, the writ petition is disposed of with a direction upon the Pradhan, Panchrol Gram Panchayat to dispose of the representation of the petitioners dated November 29, 2021, in accordance with law.

If a private arrangement had been made between the panchayat authorities and the owners of the land, as a temporary measure for drainage of the rain water and the flood water, the same cannot be construed as a public project or a construction for public welfare and Section 42 of the West Bengal Panchayat Act, 1973, would not be applicable.

However, if it is found that the canal had been made by the panchayat authorities upon compliance of Section 44 of the West Bengal Panchayat Act, 1973, through the land of the respondent Nos. 6 to 8,

in that case, the question of vesting of the concerned canal/culvert in the gram panchayat, would arise.

All these issues shall be decided by the panchayat authorities upon hearing the parties.

A reasoned order shall be passed and communicated to all concerned.

The court has not gone into the merits of the claims.

The entire exercise shall be completed within a period of three months from the date of communication of this order.

Before a reasoned order is passed upon hearing the parties, a spot inspection shall be made in the presence of all the interested parties.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)