

27.09.2022
Court No.19
Item 42
CP

WPA No. 2994 of 2022

Sunanda Banerjee
Vs.
The State of West Bengal & Ors.

Mr. Prasanta Kumar Banerjee
Ms. Indrani Nandi
... for the petitioner.

Ms. Sital Samanta
...for the respondent no. 11.

Mr. Surendra Kumar Sharma
...for the respondent nos. 13 & 14.

The petitioner alleges that the respondent nos. 13 & 14 have illegally encroached upon PWD land and also on a portion of the petitioner's land. The petitioner is the owner of Dag No. 352. It is alleged that Dag No. 351 had been demarcated as a road which belongs to the Sahadeb Gram Panchayat. Allegation is that construction has been raised by the said respondents illegally and a part of the said construction has blocked a portion of the petitioner's pond and 'pukur par'.

The panchayat authorities submit that there has not been any illegal construction on PWD road. A report prepared by the Block Land & Land Reforms Officer, Haripal has been filed before this court. Such report was prepared pursuant to a demarcation and

spot enquiry. The demarcation and spot enquiry was made at the request of the Assistant Engineer, PWD, Hooghly, Construction Sub-Division No. III.

The Block Land & Land Reforms Officer, Haripal, issued a notice under Section 57 of the West Bengal Land Reforms Act, 1955 to the parties, requesting them to remain present at the time of enquiry and to produce all relevant documents in original on February 3, 2022. The petitioner, representative of the Sahadeb Gram Panchayat, Assistant Engineer of PWD and the respondent nos. 13 and 14 were present.

It was found that L.R. Plot No. 351 belonged to Sahadeb Gram Panchayat and L. R. Plot No. 352 belonged to the petitioner. It was also found that LR Plot No. 351 was lying vacant. No encroachment or any illegal construction was found on L.R Plot No. 351. The construction of the respondent nos. 13 and 14 did not encroach the adjacent PWD road, the inspection revealed.

Under such circumstances, the allegation of encroachment on PWD road has been negated.

The next allegation that there has been encroachment on the land of the petitioner, cannot be decided by the writ court as this is a matter of evidence and has to be decided in a civil suit.

It is submitted by the respondent nos. 13 and 14 that the panchayat does not have a role to play in the matter. The nature of construction by the respondent nos. 13 and 14 did not require permission. A tile-shed hut has been constructed.

The petitioner is at liberty to proceed in accordance with law, with regard to the allegation of unauthorized construction by the said respondents, by filing an application before the panchayat authority. If such application is filed, the same shall be disposed of in accordance with law and consequential orders will be issued. The contention of the respondent Nos.13 and 14 will be taken note of. With regard to the allegation of encroachment on the petitioner's land, he may file a civil suit. With regard to the complaint of encroachment on the PWD land, he may approach the appropriate authority, under the appropriate statute.

The report of the Block Land & Land Reforms Officer is taken on record.

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.)