

12.05.2022
Court No. 19
Item no.08
CP

W.P.A. No. 4941 of 2022

Madhab Chandra Guchhait
Vs.
The State of West Bengal & Ors.

Mr. Salil Kr. Maiti
Ms. Pinki Saha

...for the Petitioner.

Mr. Prasanta Kumar Giri
Ms. Bineeta Bhattacharjee

...for the State.

Mr. Golam Mastafa
Mr. Tarasankar Samanta

....for the respondent nos. 9 to 14.

The petitioner complains of erection of a concrete structure upon his land. It is alleged that the said structure is being used as a sitting area by the local people to play cards upto midnight and for further illicit activities. The specific allegation is that the said structure has been made without any permission from the panchayat authorities. The petitioner claims that such construction is within Plot No. 1932 at Mouza – Kapasarea, J.L. No. 135. It is the specific contention of the petitioner that the panchayat authorities on an earlier occasion had broken down the said structure but the structure has been reconstructed. Inaction on the part of the panchayat authorities is the bone of contention.

Mr. Mastafa, learned advocate appearing on behalf of the respondent nos. 9 to 14, submits that the local villagers got together and constructed a bench over a government land which is used as a village pathway. That the land does not belong to the petitioner.

The question of encroachment and title over the land on which the construction has been made is neither to be decided by this court nor by the panchayat authorities. However, as the panchayat authorities are absent despite service, this court is of the view that the complaint lodged by the petitioner before the panchayat authorities must be disposed of upon hearing the petitioner as also the respondent nos. 9 to 14.

Accordingly, the writ petition is disposed of with a direction upon the competent authority of the Itamagra – II Gram Panchayat to dispose of the representation of the petitioner in accordance with law and arrive at a conclusion by passing a reasoned order.

The reasoned order shall state whether the structure has been permitted to be constructed on a village road and whether such construction would require any permission from the panchayat authorities or not.

With regard to the allegation of encroachment into the land of the petitioner, the petitioner is at liberty to approach the civil court. The petitioner is also at liberty to approach the appropriate authority about the public nuisance which is committed in front of his house allegedly by the local persons who are using the structure for some activities.

A reasoned order shall be passed and communicated to the petitioner by the competent authority of the Itamagra – II Gram Panchayat within two months from the date of communication of this order.

The court has not gone into the merits of the claims and counter-claims of the parties and the issues shall be decided independently.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)