

09.11.2022  
Sl. No.13(DL)  
srm

**W.P.A. No. 5040 of 2022**

**Sajidul Islam Sardar**

**Vs.**

**The State of West Bengal & ors.**

Mr. Sudhangshu Nath

...for the Petitioner.

Mr. Susanta Pal,  
Mr. Prabir Kumar Ray

...for the State-respondents.

Despite service, none appears on behalf of the respondent Nos.5 and 6. Affidavit-of-service is taken on record.

As this court is not inclined to pass any mandatory directions as prayed for, the writ petition is taken up in their absence.

The petitioner alleges that the respondent Nos.5 and 6 attempted to construct on Plot No.53 under mouza Ghatakpur, within the jurisdiction of Bhangar Police Station, District-South 24-Parganas. It is alleged that the land belongs to the petitioner. A complaint was filed before the Pradhan of Jagulgachi Gram Panchayat, District-South 24-Parganas, requesting the authority to ensure that the construction does not continue.

I have perused the complaint. The complaint before the pradhan dated October 20, 2021 is vague and inadequate. The reason why the petitioner believes that the construction is illegal is not disclosed. It also appears that the complaint is based on apprehension. No order can be passed on the surmise and conjecture of the petitioner. The title of the petitioner and the allegation of encroachment, etc. cannot be decided by the panchayat authorities. However, the petitioner is at liberty to approach the appropriate forum on such issue. An omnibus allegation that the respondent Nos.5 and 6 were attempting to raise an illegal construction cannot be a ground for issuance of a writ in the nature of mandamus upon the panchayat authorities.

If in future the petitioner discovers that there has been any construction at the instance of the respondent Nos.5 and 6 contrary to the provisions of West Bengal Panchayat Act, 1973, the petitioner would be at liberty to approach the panchayat authorities in accordance with law with all material particulars. Mere statements and apprehension that an illegal construction may be raised will not suffice.

This order shall not prevent the petitioner from approaching the civil court for necessary directions.

However, this liberty shall not be construed as an observation of the Court on the correctness of the allegations made by the petitioner.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

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

**(Shampa Sarkar, J.)**