

15.12.2022
Court No. 19
Item no.05
CP

W.P.A. No. 5987 of 2019
Sri Dilip Kumar Pramanick
Vs.
The State of West Bengal & Ors.

Mr. Prasanta Kr. Banerjee
Ms. Indrani Nandi

...for the petitioner.

Mr. Sougata Mitra

....for the State.

The writ petition is misconceived.

The petitioner prays for a direction upon the pradhan, Monteswar Gram Panchayat to remove certain structures in terms of the decree of the learned civil court.

Learned advocate for the State respondents has submitted a report from the gram panchayat authorities. It appears that an enquiry was made by the authorities. It was found that both the petitioner and the respondent no. 4 had obtained sanction from the panchayat before raising the construction.

The gram panchayat is competent to decide whether a construction was made upon obtaining permission and upon following the building rules or not. In this case, the panchayat authority had

granted permission for construction to both the parties.

A suit for declaration, permanent and mandatory injunction was filed by the petitioner and other co-sharers against the respondent no. 4. The respondent no. 4 suffered an ex parte decree dated December 17, 2012. The defendants/respondent no. 4 and others were restrained by way of a permanent injunction from obstructing the plaintiffs from using the Ka-2 schedule property as their pathway. The defendants were further directed by way of a mandatory injunction to remove all the bamboo fencing in the Ka-1 schedule property within 60 days from the date of passing of the decree.

The petitioner alleges that the defendants did not remove the bamboo fencing and thus approached the panchayat authorities for implementation of the decree of the civil court.

The decree of the civil court cannot be implemented through the panchayat authorities. The panchayat authorities are only empowered to ensure that no illegal or unauthorized construction takes place.

The lands and streets vested to the panchayat authorities should be free from all encumbrances and the authority would have the jurisdiction to

remove any unauthorized structure from the said public streets and lands.

A private dispute and the prayer for implementation of the decree of mandatory injunction passed by the civil court, is beyond the scope of the Panchayat Act.

The writ petition is disposed of without any orders.

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.)