

S/L 15
01.03.2022
Court. No. 19
GB

W.P.A. 8362 of 2021

Hemanta Kumar Fadikar
VS
The State of West Bengal & Ors.

*Mr. Golam Mastafa,
Mr. Subir Sabud.*

...for the Petitioner.

*Mr. Soumitra Bandyopadhyaya,
Mr. Srikanta Paul.*

...for the State.

Affidavit-of-service filed in Court today be kept with the record.

Despite service none appears on behalf of the panchayat authorities or on behalf of the respondent nos.9 to 15.

The petitioner submits that the respondent nos.9 to 15 have encroached into a portion of the panchayat road, as a result of which the ingress and egress of the petitioner to his house situated at L.R. Plot Nos.413, 415 and 416 within Mouza-Hariharpur, Under Police Station – Nandakumar has been obstructed. The petitioner prays that the representation of the petitioner be disposed of.

The writ petition is disposed of in the absence of the non-appearing respondents, solely for the reason that this Court is not passing any order on the claims of the petitioner but is relegating the entire disputed questions of fact raised herein, to the appropriate authority for an adjudication upon hearing all the parties, including the respondent nos.9 to 15.

Under such circumstances, the writ petition is disposed of with a direction upon the competent authority of

the Byabattarhat Paschim Gram Panchayat to dispose of the contentions of the petitioner contained in the representation dated September 8, 2020 and also in the demand of justice dated February 3, 2021, in accordance with law upon hearing the petitioner as also the respondent nos.9 to 15. A reasoned order shall be passed and communicated to all concerned.

This Court has not gone into the genuineness of the claim of the petitioner and the entire issue is left for determination of the authority concerned.

Needless to mention that before the hearing is given to the parties, an inspection shall be made in the presence of all the parties. A report shall be prepared and handed over to the parties. The parties will be allowed to file their written versions in the proceeding and thereafter all the issues raised shall be disposed of in accordance with law. The authority shall act and proceed in accordance with law and on the basis of what transpires during the inspection and at the hearing.

However, if it is found that the dispute is with regard to title or boundaries, in that case, the parties will be relegated to a civil suit.

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

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.)