

07.11.2022
Sl. No.4(DL)
srm

W.P.A. No. 12460 of 2021
Abdul Kasem Sekh
Vs.
The State of West Bengal & ors.

Mr. Keshab Chandra Das,
Ms. Aparajit Mondal,
Mr. Biplab Adak
....for the Petitioner.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra
...for the State-respondents.

Despite service, none appears on behalf of the respondent Nos.9 to 18. Affidavit-of-service is taken on record. As this court is not inclined to pass any mandatory directions, the writ petition is taken up in their absence.

The writ petition has been filed alleging attempt on the part of the respondent Nos.9 to 18 to forcefully enter into the land of the petitioner and in trying to dispossess the petitioner. Allegation is with regard to assertion of the right, title and interest of the said respondents in respect of the said land.

The petitioner contends that such illegal and forceful encroachment was attempted on Dag No.610 which measures about 58 decimals and is situated in

mouza Chandanpur pertaining to Khatian No.520 under the jurisdiction of Haripal Police Station, District-Hooghly. The petitioner submits that it was the bounden duty of the panchayat authorities to prevent such forceful encroachment and also to take necessary steps in this regard. The petitioner also approached the police authorities, the District Magistrate, Hooghly and the Block Development Officer, Haripal Development Block with such complaint.

As per the pleadings, it appears that the allegation is with regard to an illegal encroachment against the private persons. The cause of action in the writ petition is the denial of the petitioner's right, title, possession and user.

Neither the panchayat authorities nor the District Magistrate is empowered under the law to adjudicate such dispute. The questions of title, encroachment, boundary disputes, etc. are to be decided by the civil court.

The police authorities have filed a report. The same is taken on record. The police report indicates that the dispute arose when the private parties were trying to construct a pathway through the land of the petitioner. The police report also indicates that some temporary fencing from the property was removed. There was an altercation

and a fight between the parties. On the basis of such complaint of the petitioner, Haripal Police Station Case No.204 of 2021 dated August 7, 2021 under Sections 448/323/504/506/34 of the Indian Penal Code had been registered. Investigation is in progress.

Under such circumstances, nothing remains to be decided in the writ petition. The petitioner will be at liberty to approach the civil court for necessary relief against the alleged attempts on the part of the private respondents in encroaching the land of the petitioner. The police authorities shall continue with the investigation and reach the same to its logical conclusion. The Block Development Officer, Haripal Development Block shall ensure that the respondent Nos.9 to 18 are not encouraged in their attempts by the local panchayat authorities.

This order shall not be construed as an observation of the Court on the correctness of the allegations made by the petitioner. All the disputes raised herein are to be decided by the civil court.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

The petitioner is directed to serve a copy of the writ petition along with a server copy of this order upon the Block Development Officer, Haripal Development Block.

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

(Shampa Sarkar, J.)