

18.07.2022
Item No. 05
Court No.6.
S. De

F.M.A. 212 of 2022
With
I.A. No. CAN/1/2021

Naba Kr. Deshmukh.
-Vs-
The State of West Bengal & Ors.

Mr. Amit Kumar Dutta,
...for the appellant.
Mr. Animesh Paul,
Mr. Kingsuk Mondal,
...for the respondent nos. 9, 10 & 11
Mr. Suman Basu,
...for the respondent no.2.
Mr. Sudipto Panda,
Ms. Munmun Tewary
...for the State.

This appeal is directed against an order dated February 25, 2021 whereby the appellant's writ petition was dismissed.

The appellant had approached the learned Single Judge alleging that the private respondents have blocked the ingress to and egress from his plot of land by making construction over a panchayat road. The private respondents claimed that the portion on which construction has been made belongs to them absolutely. The mouza map was relied upon by the private respondents.

Having heard the learned counsel for the parties, the learned Judge was of the opinion that the dispute

between the parties is purely civil in nature for adjudication of which the Writ Court is not the appropriate forum. Accordingly, the writ petition was dismissed. Being aggrieved, the writ petitioner is before us.

When the appeal was admitted, a Co-ordinate Bench by an order dated October 8, 2021 had directed the concerned Block Land and Land Reforms Officer being the respondent no.7, District-Hooghly, to make an enquiry and submit a report through learned State counsel. It was directed that the report should disclose the identity of the passage in dispute.

Today a report in the form of an affidavit affirmed on December 1, 2021 has been filed by the concerned B.L.&L.R.O. Annexed to the said report, is a report dated November 3, 2021 submitted by the concerned Revenue Inspector. Such report clearly indicates that there is no passage for ingress to or egress from the property in question which is connected to the panchayat road.

In view of the aforesaid, we are of the opinion that the dispute between the parties is civil in nature and should be taken before the appropriate Civil Court. The Writ Court is not the appropriate forum for adjudication of such factual disputes. The learned Single Judge was right in not entertaining the writ

petition and relegating the writ petitioner to civil forum.

We see no infirmity in the order under appeal. The appeal being FMA 212 of 2022 is dismissed along with the connected application being I.A. No. CAN 1 of 2021 without any order as to costs.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Rai Chattopadhyay, J.)

(Arijit Banerjee, J.)