

12.04.2022

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W.P.A. 16557 of 2021

Sk. Jalaluddin

Vs.

The State of West Bengal & ors.

Ms. Pampa Dey (Dhabal)

... for the petitioner

Mr. Wasim Ahmed

Ms. Tuli Sinha

... for the State

The writ petition was originally filed with the allegation that some unauthorised construction was erected by the respondent no.8, and such construction had encroached into the panchayat road.

The allegation is in respect of a construction on plot no.303, Mouza Chakrubia within Khatian No.25 under the Indus Police Station, which had allegedly encroached into a road.

As none appeared on behalf of the Panchayat authorities, the Block Development Officer, Indus Development Block, was directed to look into the matter and file a report.

The Court was, prima facie, of the view that encroachment of a road, which led to a masjid and often used by the local villagers, could not be permitted.

The Block Development Officer, Indus Development Block has filed a report from which it appears that the construction on plot no.303 was as per the building plan and in accordance with rules. A 3' ft. vacant space has been maintained by the respondent no.8 while making such construction. The stretch of land along the plot no.301 was neither panchayat road nor a panchayat land. Such report has been filed on a field enquiry made by the Block Development Officer. It also appears that the respondent no.8 just had a makeshift arrangement to protect the privacy of the female members of his family. The specific report is that the construction on plot no.303 was not encroaching any panchayat land or road.

Under such circumstances, the allegation of the petitioner that the construction of the respondent no.8 was encroaching the panchayat road leading to a masjid, is not accepted.

Such report is kept on record.

A copy of the report is supplied to the petitioner for future reference and action.

It appears that there was a existing private dispute between the parties and the Panchayat authorities had tried to settle the dispute amicably, but such attempts have been failed. However, when the Block Development Officer has, prima facie, found that

the construction is in accordance with law and there has been no encroachment of the panchayat land, no further order need be passed on the allegation of encroachment by a writ court. In case the petitioner still maintains that an encroachment has been made, the remedy of the petitioner would be to file a civil suit.

However, if in future the petitioner can specifically indicate the nature and extent of unauthorised construction to the Panchayat authorities, the same shall be dealt with in accordance with law. For the time being, the allegation of the petitioner has been proved to be incorrect, by the field enquiry held by the Block Development Officer.

With the above observations, this writ petition is disposed of.

There shall be no order as to costs.

All parties are to act on the basis of the website copy of this order.

(Shampa Sarkar, J.)