

Item No. 7

14.06.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 15480 of 2019
Kasem Ali Mondol
v.
State of West Bengal & Ors.

Mr. Rwitendra Banerjee
Mr. Sibasis Chatterjee
... for the petitioner.

Mr. Naba Kumar Das
... for the State.

None appears on behalf of either the Gram Panchayat or the private respondent despite service.

Affidavit-of-service filed in Court today is taken on record.

Learned advocate appearing on behalf of the State respondents relies upon a report dated September 29, 2019 by the Pradhan, Chandipur Gram Panchayat forwarded to the Block Development Officer, Uluberia Block-1.

The said report mentions that on receiving the complaint of the petitioner the same was enquired and it was found that the private respondent did not construct any dwelling house in the East side of the petitioner's premises. The private respondent made a wall in the South side of his land from East to West direction. Neither the petitioner nor the private respondent took

any permission from the Gram Panchayat for making any construction. There is no proper demarcation of the lands between the two families.

As the two lands are not demarcated, accordingly, the Panchayat is not in a position to ascertain whether there has been any encroachment in the land by either of the parties. The construction made by the petitioner is illegal as no permission was sought for from the Gram Panchayat prior to making such construction.

The specific contention of the petitioner is that the private respondent is using the exterior dwelling wall of the petitioner as the supporting wall for making construction in his premises, due to which the entire water accumulating in the roof flows through the pipe and falls upon a small tank.

It appears from the report forwarded by the Pradhan to the Block Development Officer that there are certain disputed questions of facts involved in the instant writ petition. The same cannot and ought not be decided by the writ Court.

Accordingly, this Court thought it fit to grant leave to the petitioner to approach the appropriate forum for redressal of his grievances, in accordance with law, if so advised.

The writ petition stands disposed of.

The report dated May 29, 2019 by the Pradhan, Chandipur Gram Panchayat forwarded to the Block Development Officer be retained with the records.

Let a copy of the report of the Pradhan, Chandipur Gram Panchayat be handed over to the learned advocate appearing on behalf of the petitioner.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)