

02.02.2022
Court No. 19
Item no.07
CP

WPA 17584 of 2021

Tapan Kumar Sabui
Vs.
The State of West Bengal & ors.

Mr. Partha Pratim Roy
.....for the petitioner.

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

Mr. Prasun Kr. Datta
Ms. R. Datta
Mr. Santanu Dey Roy
.....for the respondent nos. 11 & 12.

Affidavit of service is taken on record.

Report of the police authorities filed in court
today is also taken on record.

The only prayer in the writ petition is that the Pradhan, Jangipara Gram Panchayat may be directed to dispose of the representation of the petitioner being Annexure P-9, at page 79 of the writ petition, dated November 1, 2021. The dispute is with regard to ownership, encroachment and demarcation.

The petitioner although has made a innocuous prayer for a direction upon the Pradhan, Jangipara Gram Panchayat to dispose of the representation of the petitioner, it appears that such an order may interfere with the disputes which is the subject

matter of Title Suit No. 79 of 2021, pending before the learned Civil Judge (Junior Division), Serampore, Hooghly. This court under the writ jurisdiction is sitting in judicial review over actions of authorities who are State under Article 12 of the Constitution of India or statutory authorities.

The petitioner has not been able to demonstrate before the court how the writ petition can be entertained when there are no allegations against any of the respondents. The only allegation is against the respondent nos. 11 and 12 to the effect that due to a civil suit filed by the said respondents, the petitioner is not being able to construct a shop room on a land which personally belongs to the petitioner. The petitioner has filed a representation before all the authorities requesting the said authorities to make an inspection and ascertain whether there has been any construction over the plot of land in excess of or in violation of the sanction plan.

Mr. Datta, learned advocate appearing on behalf of the respondent nos. 11 and 12, submits that a civil suit is pending between the parties and the nature of injunction passed by the learned civil court is that the petitioner who is the defendant shall not disturb the peaceful possession of the respondent nos. 11 and 12. There is no other order before the

court from which it would appear that the petitioner's business has been stopped or the petitioner is not being able to construct on his plot as per the permission, if at all.

The court does not go into any factual dispute in this regard. Since there are no allegations against any of the authorities, in my opinion, the writ petition is not required to be entertained.

The petitioner is at liberty to pray for modification or variation of the injunction order if the petitioner is affected by the same. In the absence of any pleadings against any of the authorities who are amenable to writ jurisdiction of this court, the court cannot entertain the writ petition at this stage. Any observation in this regard would prejudice the civil suit.

Under such circumstances, the writ petition is disposed of. There shall be no order as to costs.

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

(Shampa Sarkar, J.)