

18.8.2022

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WPA 17998 of 2022

Ashad Ali Mondal
Vs
State of West Bengal & Ors.

Mr. Suparno Ghosh
... For the Petitioner.
Mr. Nilotpal Chatterjee,
Mr. Amritalal Chatterjee
... For the State.
Md. Sarwar Jahan,
Mr. Asraf Mondal,
Mr. Maidul Islam Kayal
... For the Respondent No.10.

The petitioner alleges illegal and unauthorised construction by the adjacent owner of the plot in LR Dag No.25, Mouza – Tehatta, J.L. No.101 under Tehatta Gram Panchayat, Nadia.

The petitioner is residing in the said plot of land by constructing his residential house. The land in question is not demarcated and a Suit for partition is pending in between the parties before the learned Court below.

The petitioner has averred in the writ petition that the plot being Dag No.25 has not been demarcated and the private respondent is in possession of the plot of land which is adjacent of the plot possessed by the petitioner.

It has further been averred in the writ petition that the private respondent tried to grab the petitioner's portion of land and started unauthorised construction

without obtaining any sanctioned plan from the concerned Gram Panchayat and without changing the nature and character of the land.

The construction made by the private respondent is allegedly causing serious obstruction in the free ingress and egress to the petitioner's plot.

The petitioner alleges that the representation filed before the Prodhan of the Tehatta Gram Panchayat on 22nd July, 2022 has not been answered by the respondent authority.

Learned Advocate representing the private respondent relies upon Section 23 of the West Bengal Panchayat Act, 1973, and submits that the construction which is being made by the private respondent does not require a permission from the Panchayat as the plinth area of the constructed area is not more than 150 sq.mtrs and height is not more than 6.5 meters.

None appears on behalf of the Tehatta Gram Panchayat despite service. Affidavit-of-service filed in Court is taken on record.

The representation which has been filed by the petitioner mentions that the private respondent is making construction in such a manner by encroaching upon the land of the petitioner.

In the entire writ petition as well as in the representation filed by the petitioner, the nature and extent of the unauthorised construction has not been mentioned. Apart from bald allegation that the construction is being made without obtaining any permission from the Gram Panchayat, there is no other specific allegation mentioned.

As it appears from the submissions made on behalf of the parties that there is already a Civil Suit pending before the learned Court below it will be open for the petitioner to approach the learned Court below for appropriate relief.

The allegation of the petitioner that construction is being made by the private respondent without obtaining any sanctioned plan remains unsubstantiated.

In view of the above, no relief can be granted to the petitioner in the instant case. The writ petition fails and hereby dismissed.

The State respondents are represented by the learned Advocates.

Urgent certified photocopy of this order, if applied for, be supplied to the parties or their advocates on record expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)