

06.04.2022
Sl. No.23
ss

W.P.A.19200 of 2021

Saraswati Mondal
Vs.
The State of West Bengal & ors.

Mr. Dhilon Sen Gupta
Mr. Gaurav Basu
... for the petitioner

Mr. Jahar Lal De
Mr. Shamim ul Bari
... for the State

Mr. Raghunath Chakraborty
Mr. Saikat Thakurata
Mr. Subhendu Das
... for the respondent nos. 7 to 10

The petitioner is aggrieved by a construction made on Dag No.561 pertaining to L.R. Khatian Nos.900 and 1164, J. L. No.12 in Mouza Dhamakhali District North 24-Parganas.

The allegation is that the Dag No.561 belongs to the petitioner and the respondent nos.7 to 10 have forcefully encroached into the said land, by violating the order of injunction granted by a civil court, in a civil suit. It appears that two civil suits are pending before the civil court.

Prayers are made for a direction upon the Panchayat authorities to cancel and set aside the sanction plan. It is the apprehension that a

permission has been granted to the respondent nos.7 to 10 to run a shop from the petitioner's land.

Mr. Chakraborty, learned Advocate appearing on behalf of the respondent nos.7 to 10 submits that the Dag No.561 was sold out by the said respondents, to the petitioner. The respondent nos.7 to 10 own and possess Dag No.560. No construction has been made on Dag No.561 and the allegation of violation of the order of injunction and the assertion of title by the petitioner are matters to be decided by the civil court.

Having heard the rival contentions of the parties, this Court is of the opinion that the question whether the construction is over Dag No.561 is unauthorized, may be decided by the Panchayat authorities but the title with regard to said Dag cannot be decided by the Panchayat authorities.

Thus, the assertion of title by the petitioner and the allegation of encroachment and forcible entry by the respondent nos.7 to 10, into Dag No.561, in violation of the order of injunction, are matters to be decided by the civil court.

The petitioner has alleged that the sanction was granted to the respondent nos.7 to 10 without any authority of law. Representation to that effect has been made before the Pradhan, Bermajur Gram Panchayat.

However, the said representation lacks in material particulars.

In view of the disputed questions, which are subjudice before the civil court, the prayers cannot be granted.

However, if the petitioner in future detects that unauthorised construction is being carried out by the respondent nos.7 to 10, the petitioner may approach the Panchayat authorities in accordance with law, with better particulars and the details. If such prayer is made, the same shall be considered in accordance with law and disposed of within two months thereafter. However, the question of title, possession, encroachment etc. shall not be decided by the Panchayat authorities. The petitioner is entitled to approach the civil court, if there is any violation of the order of injunction, passed by the civil court.

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.)