

S/L 8
07.02.2022
Court. No. 19
GB

W.P.A. 20807 of 2021

Mrityunjoy Pal
VS
The State of West Bengal & Ors.

Mr. Souryasarithi Basu.

...for the Petitioner.

*Mr. Susanta Pal,
Mr. A.D. Sarkar.*

...for the State.

Affidavit-of-service filed in Court today be kept with the record.

Despite service none appears on behalf of the respondent no.7.

The petitioner has specifically submitted that some persons along with the members of the Garhbeta-II Gram Panchayat forcibly entered into the premises of the petitioner situated at Mouza-Lalpuria, P.S. Garhbeta, J.L. No.484, L.R. Khatian No.162, R.S. and L.R. No.169, 183, District-Paschim Medinipur by breaking the boundary wall. It is alleged that the said incident happened on November 28, 2021 at around 11 a.m. It is also submitted that the petitioner was beaten up by the said persons. A complaint was lodged before the police authorities. It is further submitted that a complaint was also made before the Pradhan, Garhbeta-II Gram Panchayat alleging such unauthorized and illegal activities by the members of the said Gram Panchayat.

As the panchayat authorities are not before this Court to justify their action and/or deny the allegations made in the

writ petition, this Court is of the view that a higher authority should be directed to look into the complaint of the petitioner.

Mr. Pal, learned advocate appears on behalf of the police authorities and submits a report, from which it appears that the police authorities have taken steps and proceedings under Section 107 of the Code of Criminal Procedure has been initiated vide N.C.R. No.1327 dated November 29, 2021. It also appears that subsequently proceedings have again been initiated vide N.C.R. No.1424 dated December 29, 2021 under Sections 323, 506 and 34 of the Indian Penal Code.

Although the police authorities have taken steps on the basis of the complaint lodged by the petitioner alleging offences under the Indian Penal Code, the other grievance of the petitioner that the members of the concerned Gram Panchayat have been trying to forcefully lay a sewerage line over the land of the petitioner, has to be considered by a higher authority.

It is submitted by the petitioner that the panchayat authorities do not have any right to encroach into the land of the petitioner and use such land for any purpose, without paying adequate compensation to the petitioner.

Having heard the learned advocates for the respective parties, this Court is of the opinion that the petitioner must make a detailed representation before the Sub-Divisional Officer, Medinipur Sadar, District Paschim Medinipur containing the allegations made in the writ petition. If such

representation is made, the concerned authority shall dispose of the same in accordance with law upon hearing the petitioner as also the authorities of the Garhbeta-II Gram Panchayat, including the Pradhan. A reasoned order shall be passed and communicated to all concerned. The enquiry of the Sub-Divisional Officer shall be restricted to the allegations against the panchayat authorities.

If it is found during such enquiry and disposal of the representation of the petitioner that the panchayat authorities have acted contrary to law, then the authority shall take steps to prevent such alleged illegal activities by the members of the gram panchayat and proceed against them in accordance with law. However, the question of title and disputes with regard to encroachment and boundary etc. are civil disputes which shall be adjudicated by a court of law.

As no affidavits have been called for, the allegations against the State respondents are deemed to be denied.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)