

11.2.2022
Ct. No.19
Sl.no.11
sn

W.P.A. No. 21099 of 2021

Chandicharan Gope

Vs.

Durgapur Municipal Corporation & Ors.

Mr. Mukteswar Maity

Ms. Manika Sarkar

....for the petitioner

Mr. Gausul Alam

Md. Yusuf Ali

..for the State

Mr. Sandipan Banerjee

Mr. Ankit Sureka

..for the Corporation

Mr. Robiul Islam

Mr. Binoy Kr.Panda

..for the respondent no.8

Let the affidavit of service is taken on record.

The petitioner alleges that the respondent no.8 has encroached into the land of the petitioner situated at L.R. Plot No.3351, Mouza Fulihar and has been trying to construct a permanent road. It is submitted that a partition suit was filed before the learned Civil Judge (Sr. Division), Durgapur, which was registered as Title Suit no.116 of 2015 and an order of injunction was passed directing the parties to maintain status quo till the disposal of the suit.

According to the petitioner, by violating the said order of injunction, the respondent no.8 has been constructing on the land of the petitioner. The petitioner prays for a direction upon the Durgapur Municipal Corporation to take immediate action on such encroachment and unauthorised construction.

Mr. Sandipan Banerjee, learned advocate for the Corporation submits that the dispute is a private dispute between the parties and the Civil Court is already in seisin of the dispute. That the allegation of unauthorised construction on the plot of land of the petitioner is not correct.

Mr. Alam, learned advocate for the State respondents has filed a report prepared by the police authorities. The same is taken on record. It appears that the police authorities have opined that the contention of the petitioner is not correct. On the contrary, it has been stated that a fence has been put by the petitioner around the road.

These disputed question of facts shall not be gone into by this Court. The allegations of encroachment, violation of the order of injunction etc. are not to be gone into in this proceeding. If the allegation of the petitioner is that the respondent no. 8 has violated the order of injunction and has tried to raise a construction over the land of the petitioner, it is open for the petitioner to approach the Civil Court. On the other hand, if the counter allegation is that the petitioner himself has violated the order of injunction, the respondent no.8 also has to approach the Civil Court.

The proceeding before the Writ Court cannot be transformed into a civil suit, for adjudication of the issues involved. Adjudication of such disputes require elaborate evidence, both oral and documentary.

This writ petition is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)