

31.10.2022
Court No. 19
Item No.55
sn

WPA 21470 of 2021

Mrinal Kanti Manna

Vs.

The State of West Bengal & Ors.

Mr. N.K. Manna

Mr. K.K. Manna

.....for the petitioner

Despite service, none appears on behalf of the respondents. Let the affidavit of service be taken on record.

This writ petition is disposed of in the absence of the respondents as this Court is not inclined to pass any mandatory order as prayed for but the matter is being relegated to the concerned authorities, for a decision.

The petitioner alleges that the Kheput Dakshinbar Gram Panchayat along with the respondent nos. 13 and 14 had constructed a concrete road which partially encroached into plot no.814 under mouza Alipur. The said plot is allegedly adjacent to Alipur Village Panchayat Road. Allegation is that the respondent no.14 allegedly built a boundary wall which had extended to a portion of the panchayat land. It is further alleged that due to such encroachment by the respondent no.14 on the panchayat land over an area measuring about 04 feet, the panchayat authorities had deviated from

their original plan and had shifted the construction of the panchayat road in a manner which had encroached a portion of the petitioner's land.

These disputed questions of facts cannot be gone into by this Court at this stage. However, the petitioner has already filed a demand of justice before the authorities.

This writ petition is disposed of with a direction upon the Sub Divisional Officer, Ghatal, to treat the writ petition as a representation and dispose of the same in accordance with law.

Before such decision is taken, a joint inspection shall be made of the plots of land in question and also of the construction. The inspection shall be held in the presence of the respondent nos. 13 and 14 and also the panchayat authorities. The presence of the Block Land & Land Reforms Officer, Daspur-II shall also be ensured. The records of the Block Land & Land Reforms Office and deeds of the petitioner shall be consulted in order to ascertain whether any construction had been made on the land of the petitioner, by the panchayat authorities. Necessary demarcation shall also be made. A report shall be prepared and supplied to the parties. On the basis of what transpires during such inspection necessary steps shall be taken. If it appears that there is a dispute with regard to the title of the

petitioner or there is a boundary dispute, the report shall mention so and the petitioner's remedy will be before the civil court. If the alleged construction of the road by the panchayat authorities is partially found to be exclusive land of the petitioner, in that case, the petitioner shall be adequately compensated for proportionate user of his land by the public authority.

A hearing shall be given to the petitioner and the respondent nos. 13 and 14. A reasoned order shall be passed and communicated to all.

If any construction is made in the meantime, the same shall abide by the result of the decision of the authorities.

This court has not gone into the merits of the claims and counter claims and the issues involved, shall be decided independently.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

Accordingly, the writ petition is disposed of.

There will be however no order as to costs.

All parties are directed to act on the basis of server copy of this order and/or the learned advocate's communication.

(Shampa Sarkar, J.)