

30.09.2022.
Court No.13
Item No. 39
ap

W.P.A. No. 20964 of 2022

**Md. Ali Mallick
Versus
The State of West Bengal & Ors.**

Sk. Abu Abbas Uddin,
Mr. Nahid Rahman.

...For the petitioner.

Mr. Rajarshi Basu,
Mr. K. M. Hossain.

...For the State.

Mr. Manik Lal Poddar.

...For the private respondents.

Affidavit-of-service filed in Court today be taken
on record.

The petitioner is aggrieved that the private
respondents are preventing him from using a road to
carry the materials to his plot of land.

Counsel for the private respondents submits
that the road is not a public road and is privately used
by them.

The Officer-in-charge, Chanditala Police Station
has filed a report in the form of instructions addressed
to the State Advocate dated 28th September, 2022 is
taken on record.

It is submitted that the proceeding under
Section 107 of the Code of Criminal Procedure have
been drawn up against the petitioner's complaint since
no cognizable offence was detected.

This Court is of the view that the dispute as to whether the road in question is public or private cannot be decided by the police.

In that view of the matter, this Court sees no inaction on the part of the police.

The petitioner may take out appropriate proceedings in accordance with law for determination as to whether the road in question is a public or private.

With the aforesaid observations, the instant writ petition shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)