

S/L 3
27.09.2022
Court. No. 19
GB

W.P.A. 21004 of 2022

Alok Kumar Poria
VS
The State of West Bengal & Ors.

Mr. Alok Kumar Poria.

*...for the Petitioner
(in-person).*

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

...for the State.

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

The petitioner is aggrieved by the communication made by the Block Land and Land Reforms Officer, Shyampur-II Howrah, dated February 19, 2018 to the Block Development Officer, Shyampur-II Howrah. The communication is with regard to the allegation of encroachment, made by the petitioner. The communication indicates that on the basis of a spot enquiry, it appeared that L.R. Plot No.176 of Mouza-Sajnagachi had been recorded in the name of Uluberia Local Board with easement rights from 'Joyarkul' to 'Ramnagar'. The land at present belonged to the Howrah Zilla Parishad. L.R. Plot Nos.128/319, 128, 130 and 81/317 were adjacent to L.R. Plot No.176. The petitioner claims to be the owner of the said plots.

It was revealed at the enquiry made by the Block Land and Land Reforms Officer, Shayampur-II, Howrah, that there was no encroachment on the land of the petitioner.

The petitioner is aggrieved by such observations in the report on the ground that the said issue is sub judice in

Title Suit No.483 of 2017, before the learned Civil Judge (Junior Division), 2nd Court at Uluberia. The petitioner has also referred to an order, by which the defendant nos.2 and 3 in the suit, were restrained from encroaching and/or interfering with any portion of the properties mentioned in the schedule of the plaint.

According to the petitioner, such communication between the authorities would prejudice the suit.

It appears that the petitioner also filed a writ petition being W.P. No.29982 (W) of 2017 on the self-same cause of action as in the title suit. Ultimately, the writ petition was dismissed as not pressed on November 19, 2018.

According to the petitioner, no orders had been passed by this Court directing such demarcation or spot enquiry. As such, the Block Land and Land Reforms Officer had acted beyond jurisdiction.

The communication which has been challenged before this Court is an inter departmental communication. Admittedly, two proceedings were pending on the same issue of encroachment, at the relevant time. The State of West Bengal is a party to the suit. Thus, if the State of West Bengal through its officials caused an enquiry in order to ascertain the actual position, so that it may defend the suit properly, there is no reason as to why such spot enquiry could not have been made.

It does not appear that this enquiry has been used against the petitioner. It also appears from the record that the spot enquiry may have been made as the writ petition had been pending before this Court. At best, it may be used

in the written statement and as an evidence by the state. The same shall be subject to proof and the petitioner shall get ample opportunity to controvert the same or ask for commission in the pending suit. The issues framed in the civil suit, shall be decided on evidence and available records.

With such observations, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)