

S/L 25
09.11.2022
Court. No. 19
GB

W.P.A. 22505 of 2022

Sekh Mahibar Rahaman
VS
The State of West Bengal & Ors.

Mr. Arup Kumar Bhowmick.

...for the Petitioner.

*Mr. Malay Singh,
Ms. Neelam Singh.*

...for the State.

Mr. Suman Basu.

...for the Respondent No.3.

*Mr. Saikat Mondal,
Sk. Saludin.*

...for the Respondent No.5.

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

The petitioner alleges that the respondent nos.6 and 7
being the members of the local ruling party, had persuaded
the panchayat authorities to construct a concrete road over
the land of the petitioner. It is submitted that the panchayat
authorities did not have any right to make such construction
without obtaining permission from the petitioner and
without compensating the petitioner.

The learned advocate for the panchayat authorities
submits that there has always been a pathway through the
said land and there are other co-sharers, who also have right,
title and interest over the said land. That the villagers have
been using the said pathway since long. He denies that the
panchayat authorities had at any point of time permitted
construction of or had constructed a road over the said

pathway. The panchayat authorities deny any interest over the alleged road.

Thus, it is clear that this is not a case where a statutory authority has constructed a road over the private land of the petitioner. The question of compensation does not arise. Whether there are any co-sharers or whether there are other disputes between the petitioner and the respondent nos.6 and 7 with regard to the enjoyment of the said land in question, cannot be decided by the writ Court.

The petitioner is at liberty to approach the civil court for necessary reliefs. As the panchayat authorities have not claimed any interest over the concerned road, the writ petition is not maintainable against the said authority. The issues which have been raised are private in nature and shall be decided by the civil court, if the petitioner approaches the civil court, in accordance with law.

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.)