

21-11-2022
Item No.10
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.24162 of 2022
Basudeb Mahata & Ors.
-vs-
The State of West Bengal & Ors.

Mr. Probal Sarkar ...for the petitioners

Mr. Susanta Pal
Mr. Pinaki Bhattacharjee ...for the State

Mr. Mukteswar Maity ...for respondent no.8

From the averments in the writ petition it appears to this court that the dispute between the petitioners and the eighth respondent is civil in nature.

The allegation is that the eighth respondent has made certain constructions over LR Plot No.112 which obstructed the petitioners and the villagers from using a pathway. The contention of the petitioners is that the pathway measures around 4 ft. x 200 ft.

The eighth respondent submits that the said respondent is the recorded owner of the said plot. That no pathway existed and reliance has also been placed on an order passed by the Sub-Divisional Magistrate in a proceeding under section 144(2) CrPC preventing any disturbance in the use of the land by the said respondent.

As there are no allegations against the respondent authorities, this court is not in a position to issue a writ of mandamus against them.

It appears that the petitioners approached the authorities for settlement of the dispute. The specific

complaint was that the pathway led to the tube well from which the villagers collected their drinking water for years together and also to a temple where the villagers go for worship.

Even if the petitioners and the other villagers have a right of easement over the said plot which is alleged to have been blocked by the eighth respondent, the said issue cannot be decided by the writ court or by the panchayat authorities. The remedy of the petitioners against the obstruction would be before the appropriate civil court.

The petitioners are at liberty to approach the civil court strictly in accordance with law. The issues will be decided independently and on evidence.

With the above observation, the writ petition is disposed of. No order as to costs.

This court has not expressed any opinion on the merits of the allegation made by the petitioners.

[Shampa Sarkar, J]

