

15.03.2022
Court No. 19
Item no.26
CP

W.P.A. No. 9847 of 2020

Pradip Kedia & ors.
Vs.
The State of West Bengal & Ors.

Mr. Partha Ghosh
Mr. Amal Kumar Datta
Mr. Debashis Das

...for the Petitioners.

Mr. Nilanjan Adhikari
Ms. Tarunika Pal

....for the respondents 6 to 12.

Mr. Susovan Sengupta
Mr. Subir Pal

.....for the State.

Affidavit of service is taken on record.

None appears on behalf of the panchayat authorities, despite service.

The petitioners allege that the Pradhan of Harishchandrapur Gram Panchayat exceeded his jurisdiction in issuing the notice dated November 5, 2020. By the said notice, the petitioners have been asked to self-demolish a portion of the construction made by the petitioners, on a village road in front of Booth No. 221. Failing which, the panchayat authorities reserved the right to proceed in accordance with law, for removal of such unauthorized encroachment.

The petitioners submit that the said notice was issued without holding any inspection in their presence. The details and the nature and extent of the encroachment upon the village road, had not been mentioned. The location of the village road had also not been mentioned. The allegations are baseless and without any foundation.

Learned advocate for the respondent nos. 6 to 12, (the local inhabitants) who had raised a complaint with regard to the blockage of the village road, submits that the notice was issued upon an inspection made by the competent authority of the panchayat and a report was filed before the Block Development Officer with such observations of encroachment.

Another writ petition has been filed by the said respondents being WPA 12038 of 2021 for implementation of the aforementioned impugned notice, issued by the Pradhan dated November 5, 2020.

Having considered the rival contentions of the parties, this court is of the opinion that the proceedings already initiated by the petitioners against the respondent nos. 6 to 12 for allegedly breaking down the boundary wall of the petitioners shall be disposed of in accordance with law, by the concerned investigating agency.

The petitioners shall be at liberty to initiate further proceedings as permitted by law on such allegations of demolition of the boundary wall of the petitioners by the said respondents.

This court sitting in the writ jurisdiction cannot pass a direction upon the private individuals, as prayed for by the petitioners. However, the propriety of the impugned notice is to be looked into by this court.

Under such circumstances, this court is of the opinion that the panchayat authorities shall make a fresh inspection of the construction of the petitioners in question, in respect of which the impugned notice has been issued. The inspection shall be made in the presence of the petitioners as also a representative of the respondent nos. 6 to 12 and under the supervision of the Block Development Officer.

The panchayat authorities, with the help of an 'Amin' from the office of the Block Development Officer shall measure and demarcate the portion of the land in the occupation of the petitioners as per the title deeds of the petitioners. The record of rights, mouza map and land records shall be compared. If upon making such demarcation, it is found that the petitioners had gone beyond their permissible area and had encroached into the village road, in that

case, a report shall be prepared and served upon the petitioners and also the other respondents.

Parties shall be entitled to respond to the said report and, thereafter, upon hearing the concerned parties a reasoned order shall be passed and communicated to all concerned. The panchayat authorities shall proceed in accordance with law for removal of the encroachment.

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

It is made clear that the Block Development Officer shall be present at the time of inspection and demarcation for supervision, in view of the seriousness of the allegations involved. In case it is found that the petitioners construction is within the demarcated portion, then the impugned notice shall stand revoked.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)