

S/L 14
11.01.2023
Court. No. 19
GB

W.P.A. 73 of 2023

Balaram Gharami
VS
The State of West Bengal & Ors.

*Mr. Debabrata Saha Roy,
Mr. Lakshminath Bhattacharya*

...for the Petitioner.

*Mr. Malay Krishna De,
Mr. Arunava Maiti*

...for the State.

*Mr. Pankaj Halder,
Mr. Sanatan panja,
Mr. Tapas Manna,*

...for the Respondent Nos.9, 10 & 11.

Mr. Bapin Baidya

...for the Respondent No.13 & 14.

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

The writ petition has been filed on the presumption
that the authorities of Debipur gram panchayat had started
construction of a concrete road over Plot No.8/212 of
Mouza-Rajapur. The land has been classified as 'Sali'.

The petitioner contends that Section 44 of the West
Bengal Panchayat Act, 1973 would be a bar and without
either compensating the petitioner or acquiring the land in
question, the panchayat authorities could not have utilized
the land for any public purpose.

The learned advocate for the respondent nos.13 and
14 submits that a concrete road had been constructed by the
villagers long time ago. The said land had been used by the
respondents Nos. 13 to 14 and other villagers as a pathway

and a coordinate Bench had permitted the villagers to use the same as a pathway until further orders of a civil court.

In an earlier round of litigation, the petitioner had approached this Court for protection of his right in respect of the alleged land and pathway. The Court was of the view that the allegation of encroachment over the petitioner's land could not be decided by the writ Court and the petitioner was granted liberty to approach the civil court. The petitioner approached the civil court and was favoured with an *ad interim* order of injunction, initially. Such order of injunction was not extended due to laches on the part of the petitioner. The alleged road was constructed. The petitioner has filed this writ petition on the assumption that the panchayat authorities had constructed the same upon expiry of the interim order.

Mr. Halder, learned advocate appearing on behalf of the panchayat authorities denies such construction. Such denial is corroborated by the statement of the respondent nos.13 and 14 that the villagers had personally laid the concrete slab for proper use of the pathway.

It is the contention of the respondent nos.13 and 14 that the concrete structure had been laid prior to filing of the civil suit, whereas Mr. Saha Roy, vehemently denies such submission.

In any event, as the panchayat authorities do not claim any responsibility or connection in respect of such construction, the writ Court is not required to go further into such dispute. The remedy of the petitioner against any action

of the respondent nos.13 and 14 would be before the civil court. The petitioner is at liberty to file appropriate application for other reliefs including an application for mandatory injunction for removal of the alleged construction. The learned civil court shall decide such private disputes in accordance with law on their own merits, without being influenced by this order.

This Court has not decided the merits of the suit.

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.)