

S/L 19
11.1.2023
Court. No. 19
sn

WPA 424 of 2023

Falguni Mukherjee
VS
The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee
Mr. Subhas Chandra Atta
Mr. Badrul Karim
Mr. Sandipan Das
Ms. Payel Paramanik

...for the petitioner

Mr. Debnath Ganguly
Mr. Supriyo Dutta
Ms. Aishwarya Pratihar

.

.for the respondent no.10

Mr. L.M. Mahata
Mr. Rudranil De

..for the State respondents

The petitioner has challenged the order dated December 31, 2022 issued by the Sub Divisional Officer Sadar, Bankura. The order was passed after completion of the demolition work in respect of unauthorized structures on plot nos. 473/712, 473/713, 473/714, 472 and 475 of mouza Krishnanagar. According to the learned advocate for the petitioner, the impugned order was unwarranted and without jurisdiction.

This Court agrees with such contention and holds that the authority should have restricted his findings and action to the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973. He should

not have gone beyond the said issue of demolition and recovery of the cost of demolition. He could not have restrained the petitioner from entering into the land, from fencing the land and from selling the land. These directions can only be passed by the civil court. However, if the civil court had directed the authority to implement its order, the authority, namely, the Sub Divisional Officer could have assumed jurisdiction.

The contention of the respondent no.10 is that the petitioner was trying to take forceful possession and was also trying to erect a brick wall. The SDO thus passed protective orders.

The Sub Divisional Officer had assumed the jurisdiction of a civil court and passed certain orders which were not authorised by law.

The writ petition is allowed to the extent that the impugned order Dated December 31, 2022 is set aside and quashed.

If there are further unauthorised construction or construction of a concrete boundary wall, the remedy of the respondent no.10 would be to approach the panchayat authorities. The Sub Divisional Officer cannot step into shoes of the civil court and pass directions as contained in the impugned order. The order of demolition and recovery of costs of demolition are not interfered with.

This order shall not preclude the authority concerned, from recovering the costs of demolition as per law. Other allegations have not been decided.

This writ petition is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)