

13.02.2023
Sl. No.13(DL)
srm

W.P.A. No. 855 of 2023

Hasan Mallik

Vs.

The State of West Bengal & Ors.

Mr. Atis Kumar Biswas,
Mr. Amit Singh,
Ms. Jyoti Agarwal

....for the Petitioner.

Mr. Susovan Sengupta,
Mr. Saikat Chatterjee

...for the State-respondents.

Affidavit-of-service is taken on record. Third attempt to serve the respondent No.9 has failed.

The Court is not inclined to pass mandatory directions as prayed for. The matter is sent back to the appropriate authority for necessary steps. The writ petition is thus, taken up in the absence of the respondent No.9 who will be given adequate opportunity of hearing by the authority.

It appears that the Nakashipara Gram Panchayat, Nadia has already asked the respondent No.9 to stop the alleged construction as there was a dispute with regard to the identity of the land on which such construction is being made. The panchayat authorities have also asked the

respondent No.9 to restrict the construction to the land in respect of which the benefit under the PMAY(G) scheme has been given.

The information given by the Block Development Officer, Nakashipara, Nadia to the learned Advocate for the State-respondents, does not inspire the confidence of the Court and the Court is of the opinion that the issue has to be decided by the Sub-Divisional Officer, Krishnagar Sadar, Nadia.

The writ petition is disposed of with a direction upon the Sub-Divisional Officer, Krishnagar Sadar to cause an inspection and demarcate the portion where the alleged construction has been raised by the respondent No.9 with the funds under the PMAY(G) scheme. The said respondent authority shall take the assistance of the Block Land and Land Reforms Officer, Nakashipara while making such demarcation. The Block Development Officer and the Pradhan of the concerned gram panchayat shall be present.

Needless to mention that the authority shall ensure that the construction had been made on the land shown by the respondent No.9 as his own land at the time of receiving the funds under the PMAY(G) scheme. A report shall be prepared and supplied to the parties. The parties

shall be entitled to respond such report. A hearing shall be given to the parties and a reasoned order shall be passed. If the construction is going on and the authority finds that the allegation of the petitioner to be correct, no further construction shall be permitted. If it is found that government land or a PWD land had been encroached, then the matter shall be referred to the competent authority and necessary action shall be taken in accordance with law for removal of encroachment from public land. However, if the land of the petitioner and the land on which the construction exists, cannot be demarcated properly or there are rival claims to title, the matter must be decided in a civil suit.

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

This Court has not gone into the merits of the claims of the petitioner and this order shall not be considered as the opinion of the court, on the correctness of the allegations of the petitioner.

A copy of the writ petition along with a server copy of this order be served upon the Sub-Divisional Officer, Krishnagar Sade, Nadia.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)