

Item No.5
29.03.2023
Court. No. 19
GB

WPA 4723 of 2023

Badal Chandra Maity
Vs
The State of West Bengal & Ors.

Mr. Aswini Kr. Bera,
Mr. Arijit Bera

...for the Petitioner.

Mr. Asish Kumar Guha,
Mr. Naren Ghosh Dastidar

...for the State.

Mr. Saibal Acharyya,
Mr. Pradip Paul

...for the Respondent No.7.

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

The dispute between the cousins cannot be resolved by the Writ Court. The petitioner submits that he had constructed a 'moram' road on government land and had also placed some cement poles to ensure drainage of rain water, which was blocked by the respondent no.7.

The respondent no.7 denies such allegation and submits that the allegation of the petitioner was not correct. The respondent no.7 was carrying out certain excavation work in his own land, without interfering with the drainage system.

The representations made to the gram panchayat and to the Block Development Officer separately, indicate that the petitioner was aggrieved because the respondent no.7 had allegedly blocked the drainage facility through the 'moram' road which was in front of the petitioner's house.

Even if, the petitioner had constructed a 'moram' road on government land at his own cost and also had made a makeshift arrangement for drainage of rain water, he had done so at his own risk and such construction does not create any right or equity in favour of the petitioner.

However, maintenance of sanitation and proper drainage is the duty of the gram panchayat under the law. The petitioner is at liberty to approach the concerned gram panchayat for necessary steps to be taken to ensure that water logging and stagnation of dirty water in an around the petitioner's land can be avoided. Proper sanitation should be maintained in order to avoid health hazards.

Once the panchayat authorities receive such application of the petitioner, steps shall be taken in accordance with law by holding an inspection in the presence of the villagers, who are likely to be affected if proper sanitation and drainage system is not maintained in the area.

The dispute between the petitioner and the respondent no.7 is neither to be adjudicated by this Court nor by the panchayat authorities, save and except that the panchayat authorities shall ensure that the respondent no.7 or any other person does not create any nuisance by interfering with the drainage facilities in the locality.

As no affidavit is called for, the allegations against the respondent no.7 are deemed to be denied.

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.)