

13.03.2023
Court No. 19
Item no.13
CP

W.P.A. No. 4735 of 2023

Basudeb Das

Vs.

The State of West Bengal & Ors.

Mr. Lalratan Mondal
Mr. Dilip Kumar Sadhu

....for the petitioner.

Mr. Md. Galib
Mr. Anubrata Santra

....for the State.

The petitioner has prayed before the court for cancellation of the order dated September 26, 2022 issued by the Belda – I Gram Panchayat. According to the petitioner, the panchayat authorities did not have any jurisdiction to issue such an order which was contrary to the deed of partition entered into between the petitioner and the father of the respondent no. 8, namely, Sankar Das.

The petitioner alleges that the permission granting authority while granting sanction had allowed the respondent no. 8 to construct on a passage which was agreed to be kept vacant by the parties for their ingress and egress.

The panchayat authorities upon hearing the parties had arrived at a conclusion that the

respondent no. 8 could continue with the construction by keeping a passage from the pond to the well. Some portion would also have to be kept vacant in the north, by the petitioner.

It was further decided that if the parties did not agree to such proposal, the panchayat authorities and the villagers would together find a passage for the ingress and egress of the parties.

According to the petitioner, the construction over the passage was contrary to the deed of partition and the panchayat authorities could not have given the permission to construct on the said passage. The permission granting authority ought to ensure that the construction should have restricted to the areas demarcated in the deed and was not over any passage.

The petitioner has already approached the panchayat authorities for cancellation of the plan and/or modification thereof.

The panchayat authorities are directed to treat the writ petition as a representation and dispose of the same in accordance with law, upon granting an opportunity of hearing to all the parties.

It appears to the court that if a pathway is demarcated from the pond to the well, the parties would not have any objection.

The panchayat authorities will hold an inspection in the presence of the parties. If the local villagers are interested, they may also participate in such inspection. Upon considering all the aspects a report shall be prepared and supplied to the parties.

Thereafter, a hearing shall be given to the parties and a reasoned order shall be passed and communicated.

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

The parties are at liberty to approach the civil court for other reliefs with regard to the allegations of encroachment and obstruction on the pathway as also for enforcement of the deed.

The respondent no. 8 shall be at liberty to rely on the order of injunction passed by the civil court at the time of hearing.

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.)