

29.3.2023
Ct.19/sl.14
sn

W.P.A. 5812 of 2023

Bimal Sankar Chakraborty

Vs.

The State of West Bengal & Ors.

Mr. Rudra Prasad Matilal

..for the petitioner

Md.Galib

Ms. Jyotsna Roy Mukherjee

..for the State

Mr. Apurba Kr.Datta

..for the respdt.no.3

Mr. Koustav Bagchi

Mr. Debayan Ghosh

Ms. Priti Kar

..for the respdts.5,7&8

Ms. Sreemoyee Mukherjee

..for the respdts. 9&10

The petitioner alleges that the Pradhan of Salanpur Gram Panchayat had illegally prevented the petitioner from constructing a boundary wall over 1.62 acres of land, situated at Dag no. 335, within Melakhola mouza.

The petitioner submits that the land had been settled in favour of the petitioner by way of patta.

Mr. Bagchi, learned advocate for the respondent nos. 5,7 and 8 submits that the land is still undivided and there are disputes with regard to right, title, interest and user of the land. Learned counsel submits that the petitioner was asked not to raise any construction of the boundary wall as the lands were not demarcated.

Learned advocate for the respondent nos. 9& 10 reiterates the submission of Mr. Bagchi.

Learned advocate for the Pradhan submits that there are rival claimants in respect of the land in question and unless the petitioner's area was specifically demarcated, it was not possible for the panchayat authorities to allow construction of a boundary wall. Major portion of the land had been used as play ground since long and unless there was demarcation of the area which was settled in favour of the petitioner by way of patta, disputes would arise.

In the aforementioned backdrop, it will not be proper for the writ court to pass any order directing the panchayat authorities to allow construction of such wall. The panchayat authorities and the other respondents categorically submit that the land around which the petitioner had tried to erect a temporary fencing, had been treated as a "Khelar Math".

The Court is of the view that the concerned Block Land & Land Reforms Officer should be approached by the petitioner for demarcation of the land in terms of the alleged patta. Such demarcation shall be made in presence of all the parties who are

involved in this litigation and who have interest on the land.

A report shall be prepared and parties shall be supplied such report. Thereafter, necessary steps shall be taken in accordance with law. However, in case there are rival claims to title over the area claimed by the petitioner or there are other encroachers or occupants, the parties shall get their rights decided by the civil court.

A hearing shall be given to the parties and a reasoned order shall be passed and communicated to all. It is made clear that the finding of the Block Land & Land Reforms Officer shall be reflected in the reasoned order.

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

This writ petition is disposed of.

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

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

(Shampa Sarkar, J.)