

Item No.10
10.05.2023
Court. No. 19
GB

WPA 7822 of 2023

Tapan Kumar Jana
Vs
The State of West Bengal & Ors.

Mr. Dilip Kumar Singha

...for the Petitioner.

*Mr. Moloy Singh,
Mr. Bibekananda Tripathy*

...for the State.

*Mr. Souvick Mitra,
Ms. Subhasri Chatterjee*

...for the Respondent No.6.

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

The petitioner alleges that the Headmaster of the Moyna Adarsa Sikshyatan raised a boundary wall without any permission from the panchayat authorities and on a PWD road, right in front of the petitioner's premises, thereby not only disturbing the ingress and egress of the petitioner but also obstructing the light and air and the frontal view of the petitioner's house.

The learned advocate for the Headmaster of the school submits that the wall had been built long time ago over a portion of the land which had been donated by the co-sharers, to the school. The deed of gift has been produced before the Court in support of such contention. The learned advocate denies that any new construction had been made in front of the petitioner's house which had allegedly obstructed the light and air and also ingress and egress of the petitioner.

The petitioner denies the contentions and submits that other co-sharers may have donated the land, but the petitioner does not accept such fact. It also appears that a partition suit is pending between the parties for demarcation of the individual areas to be enjoyed by them.

As the contention of the petitioner is that the construction is on PWD land and the same had obstructed the ingress and egress of the petitioner, this Court is of the view that the panchayat authorities cannot take any action.

It is contented by the respondent school that the existing wall was repaired and for such repair no permission would be required. It is also contended that the school would not be secure if the boundary wall was kept in a broken condition.

Under such circumstances, liberty is granted to the petitioner to approach the PWD authorities with the allegation of encroachment over such PWD road. If such objection is filed, the same shall be disposed of strictly in accordance with law.

This Court has not gone into the merits of the allegation of the petitioner. The authority shall proceed under the applicable laws, by following the due process.

Needless to mention, appropriate steps shall be taken and the decision of the authorities shall be communicated to the respective parties. All the parties shall be allowed to be present during the inspection.

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.)