

01.05.2023
Court No. 19
Item 19
CP

W.P.A. No. 8115 of 2023

Netai Shasmal

Versus

The State of West Bengal & Ors.

Mr. Dhananjay Banerjee,
Ms. Oindrila Ghosh,
Ms. Naquiba Tasheen

....for the Petitioner.

Mr. Susanta Pal,
Mr. Ananda Dulal Sarkar

...for the State-respondents.

Mr. Dilip Kumar Maiti

...for the Respondent Nos.5 to 7.

The grievance of the petitioner is that, in violation of the order of injunction passed by an Hon'ble Division Bench of this court in an appeal from a preliminary decree filed by the petitioner, constructions have been raised by the respondent Nos.5 to 7.

The construction has been allegedly raised on Plot No. 463 and Plot No. 465 of Mouza – North Daudpur, without any permission and in violation of the orders passed in the pending appeals, namely, FA No. 2 of 2018 and FA No. 3 of 2018.

Learned advocate for the respondent nos. 5 to 7 have produced documents to show that a sanction had been granted for construction on plot no. 463

sometime in 2011. Learned advocate further hands over the commissioner's report which indicates that the construction belonging to the said respondents already existed on the plot in question. Such report of the commissioner was filed in the suit.

Thus, the court is not inclined to entertain the writ petition, solely on the ground that the relief claimed should be made in the pending appeal. The allegation of violation of the order of injunction, if any, is to be decided in a different proceeding and neither by this court nor by the panchayat authorities.

The issues involved in the appeal with regard to the right, title, interest and possession of the parties in question, have not been gone into. This court only records that the allegation of construction in the absence of the building plan has not been substantiated and such issue will also be subject to further decision in the pending appeals.

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.)