

131 (ML)
05.01.2023
Ct. No.10
b.das

WPA 7828 of 2022

Ruma Parai
Vs.
The State of W. B. & Ors.

Mr. Sukumar Ghosh	
Ms. Moumita Ghosh	...for the petitioner.
Mr. Ansar Mandal	
Ms. S. Bhattacharya	...for the State.

Affidavit of service filed by the petitioner and the report submitted by the State respondents are taken on record.

Pursuant to an order passed by this Court on 6th December, 2021 in WPA 17151 of 2021, the Executive Engineer, Tamluk Highway Division considered the representation submitted by the petitioner praying for a direction to construct boundary wall over government land adjoining her property for the purpose of gardening and rejected the prayer of the petitioner by an order passed on 9th February, 2022. The said order is assailed in the writ petition.

It is submitted on behalf of the petitioner that the authority failed to appreciate the good intention of the petitioner and though it is recorded in the order that there was no unauthorised encroachment over the said plot in front of the raiyati land of the petitioner, there is in fact

some unauthorised encroachment in portions of the plot in question.

In the order impugned, the concerned authority has recorded that the land in question shall be used for widening of the road and the prayer of the petitioner was rejected on that score.

There is no illegality in the decision making process of the authority which warrants intervention by the writ court. The report submitted on behalf of the State respondents disclose that there is no encroachment on the land in question.

In the event the petitioner detects such illegal encroachment, she is at liberty to take necessary steps in accordance with law.

Consideration of an application under Section 8(2) of the West Bengal Highways Act, 1964 is the sole discretion of the concerned authority and the writ court cannot interfere unless the decision making process is flawed.

In view of the above, this Court is inclined to hold that this writ petition is devoid of any merit and is liable to be dismissed.

Accordingly, the writ petition being WPA 7828 of 2022 is dismissed.

However, there shall be no order as to costs.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)