

May 10, 2023  
Sl. No.13  
Court No.19  
s.biswas

WPA 8897 of 2023

*Sujata Mondal*

*vs.*

*The State of West Bengal and others*

Mr. Samim Ahammed  
Mr. Aniruddha Singh  
Ms. Ambiya Khatun

... for the petitioner

Mr. Jahar Lal De  
Mr. Rudranil De

... for the State

Affidavit of service filed by the petitioner is taken on record.

The order of the District Magistrate, South 24 Parganas, dated November 4, 2022, is under challenge.

The petitioner prays for cancellation of the sanction granted to the respondent nos.9 and 10 for construction under the Pradhan Mantri Awas Yojana (PMAY), inter alia, on the ground that the factual findings in the order impugned, were contrary to the actual state of affairs.

Further allegation is that the finding of the District Magistrate, to the effect that there was no encroachment over the land of the petitioner, was not within the domain of the District Magistrate.

Mr. De, learned advocate appearing on behalf of the State respondents, submits that the issue of encroachment was decided on the basis of the report of the Block Land and Land Reforms Officer,

Bishnupur Block-II and the same was a passing observation while deciding the actual issue of eligibility of the respondent nos.9 and 10 to be the beneficiaries under the PMAY scheme.

Mr. De further submits that the contention of Mr. Ahammed that the construction was in violation of the order of injunction granted by the learned Civil Court in Title Suit No.947 of 2018, was incorrect. The suit was with regard to the declaration of title and correction of record of rights in respect of the entire land and the injunction order was in respect of a passage.

Having heard the learned advocates for the respective parties, this Court is of the view that the findings of the District Magistrate with regard to encroachment, cannot be treated as sacrosanct and the said issue shall be decided in a civil suit.

However, the findings of the fact that the respondent nos.9 and 10 i.e. the beneficiaries were living in a tarpaulin house and a mud house respectively and were entitled to the financial assistance under the scheme, is not interfered with as this Court is of the view that upon adjudicating the entire matter and upon hearing the parties and on the basis of the reports filed by the Pradhan and the Block Development Officer, Bishnupur Block-II, such decision was arrived at. Just because the

grandson of one of the respondents and son of the other respondent were in possession of a motorcycle and a refrigerator respectively, the same cannot be grounds for rejection of the benefit under the scheme granted to the respondent No. 9 and 10. Their living conditions are relevant factors.

The factual finding arrived at in the order passed by the District Magistrate does not require further probe by the Writ Court. The Writ Court can neither be transformed into a fact-finding court nor can it be asked to sit in appeal over such factual findings.

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 server copy of this order.

**(Shampa Sarkar, J.)**