

M/L 527
31.01.2023
Court. No. 19
GB

W.P.A. 9097 of 2022

Abdus Selim
VS
The State of West Bengal & Ors.

*Mr. Uday Sankar Chattopadhyay,
Mr. Suman Sankar Chattopadhyay,
Mr. Santanu Maji,
Ms. Rajashree Tah,
Ms. Trisha Rakshit,
Mr. Gourab Das,
Ms. Singdha Saha*

...for the Petitioner.

*Ms. Sipra Mazumdar,
Ms. Sangeeta Roy*

...for the State.

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

The writ petition is not maintainable in its present form. The petitioner alleges encroachment by the respondent nos.8 to 10 over Plot Nos.1496, 1497 and 1498 of Mouza-Barar.

The petitioner alleges that despite such order of status quo, the respondent nos.8 to 10 have raised a construction upon obtaining funds under the Pradhan Mantri Awas Yojana on the petitioner's plot.

It appears that Title Suit No.28 of 2010 is pending before the learned Civil Judge (Junior Division), 3rd Court, Burdwan and the parties were directed to maintain status quo with regard to the nature and character of the suit property. Such interim order of status quo was passed on September 5, 2011.

The suit appears to have sufficiently progressed and it also appears that a learned Commissioner had been

appointed by the learned civil court for local investigation. The police report is taken on record, which indicates that some excavation work was going on, but no construction had been made on the disputed plots.

The petitioner is at liberty to approach the learned civil court for further orders with regard to the alleged violation of the order of the learned civil court. The police authority shall ensure that the interim order of the learned civil court is implemented. If any construction has been made in violation of the order of the learned civil court over the disputed plots of land which are subject matter of the civil suit, the learned civil court is empowered by law to pass necessary orders. The construction will always be subject to the decision in the civil suit.

Accordingly, the writ petition is disposed of.

Parallel proceedings directing the Block Development Officer to enquire into the matter with regard to the alleged construction of the respondent nos.8 to 10 cannot be allowed. Moreover, the issues raised in this writ petition is not dereliction of duty by the panchayat authority but encroachment of the petitioner's land by a private party. A civil suit is pending. The panchayat authorities can neither decide title nor pass a decree for eviction and recovery of khas possession.

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.)