

Item No.16
20.02.2023
Court. No. 19
GB

WPA 9273 of 2022

Naba Kumar Das
Vs
State of West Bengal & Ors.

Mr. Ambar Nath Banerji

...for the Petitioner.

Mr. Amrita Panja Moulik

...for the Respondent No.9.

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

Despite service, none appears on behalf of the respondent nos.6, 7 and 8.

The petitioner alleges that the respondent nos.6 to 8 have raised a construction of a shop on a village road. According to Mr. Banerji, the respondent no.9 and the petitioner as brothers, were allotted plots of land by virtue of a partition decree. The said village road leads to the main road and the construction on the village road has obstructed the ingress and egress of the petitioner and the respondent no.9.

Although the respondent nos.6 to 8 are not represented before the Court despite service, the Court does not propose to keep the writ petition pending as the issue has to be decided by the gram panchayat in terms of Section 25(2) of the West Bengal Panchayat Act, 1973. The provision of Section 25(2) is quoted below:-

*“25. Power of Gram Panchayat over public streets, water-ways and other matters.-
(2) A Gram Panchayat may, by a notice in*

writing, require any person who has caused obstruction or encroachment on or damage to any public street or drain or other property under the control and management of the said Gram Panchayat, to remove such obstruction or encroachment or repair such damage, as the case may be, within the time to be specified in the notice.”

The gram panchayat shall give adequate opportunity to both the parties before any proceeding is initiated and steps are taken in terms of the above provision. While deciding the issue, an inspection of the alleged village road and the construction shall be made. A demarcation of the area on which such construction has been raised, shall also be made with the assistance of the Block Land and Land Reforms Officer. Such inspection and demarcation shall be done in the presence of all the parties. A report shall be prepared. Such report shall be supplied to all. Parties shall be allowed to respond to such report. Thereafter, a hearing shall be held. A reasoned order shall be passed and necessary steps shall be taken by the panchayat authorities in accordance with law.

If the construction is found to be without permission, in that event also, the panchayat authority shall take steps in respect of the said construction even if the construction is found not to be on a village road.

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.)