

17.05.2023
Sl. No.14(DL)
srm

W.P.A. No. 10431 of 2023

Sri Subodh Pramanik

Versus

The State of West Bengal & Ors.

Mr. Sandip Das,
Mr. Sarthak Burman

....for the Petitioner.

None appears on behalf of the respondents. The respondent No.9 had refused service. The postal article is taken on record. Refusal is good service and hence the matter is taken up in the absence of the said respondent. Affidavit-of-service is taken on record.

Initially, the petitioner owned the subject property. He sold the same. Then he purchased the same once again.

Facts reveal that when the petitioner purchased the property once again from his vendor, a tube well was already in existence. The same was not functioning. The petitioner submits that the authorities must pay compensation to the petitioner for installation of a new tube well in the presence of the old one.

From the pleadings, it is clear that the tube well already existed when the petitioner purchased the property and thus the contention that the gram panchayat

must compensate the petitioner, is not accepted. The petitioner's vendor/erstwhile owner, may have allowed installation of the tube well. The petitioner purchased the property once again, along with the tube well.

The allegation of the petitioner against the installation of a new tube well by the Bazar Committee of Kashinagar Bazar, South 24-Parganas, in place of the existing non-functional tube well, cannot be decided by the writ court.

If it is the petitioner's case that the respondent No.9 had instigated the panchayat to install a new tube well, the remedy of the petitioner would be before the appropriate learned civil court. It is not a case that the panchayat authorities had forcefully entered into the land of the petitioner and had used a part of the same for sinking a tube well. Thus, Section 44 of the West Bengal Panchayat Act, 1973, will not be applicable. However, the remedy by way of a civil suit is available against the alleged wrongdoer.

The petitioner is at liberty to take appropriate action by filing a suit with necessary prayers for declaration and injunction.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of
this order.

(Shampa Sarkar, J.)