

05.04.2023
Sl. No.49(ML)
srm

W.P.A. No. 10231 of 2022

Piku Jha

Vs.

The State of West Bengal & Ors.

Mr. Pinaki Dhole,
Mr. Debjit Bhattacharjee

....for the Petitioner.

Ms. Sanghamitra Nandy,
Mr. Bhaskar Chakraborty

...for the State-respondents.

Mr. Avishek Prasad,
Ms. Sreetama Neogi,
Ms. Piya Kumari

...for the Respondent Nos.9 to 11.

Affidavit-of-service is taken on record.

The writ petition is not maintainable in its present form.

The petitioner alleges that although the District Magistrate, Malda, had directed that a road should be kept intact for safe passage of ambulance and small fire brigade vehicle, the Block Development Officer, Ratua-II, Malda and the Pradhan of Araidanga Gram Panchayat, Malda, did not monitor the demarcation of the road. Hence, the jurisdiction of this Court has been invoked on the ground of inaction of the Pradhan.

The learned Advocate for the respondent Nos.9 to 11 submits that the demarcation of 8ft. width of the road was made by the Block Land and Land Reforms Officer, Ratua-II, Malda, in the presence of all the parties including the petitioner. Compliance report was filed.

It appears that the Block Development Officer and the Pradhan of the gram panchayat also ensured that the boundary wall of the respondent Nos.9 to 11 was constructed by leaving 8 ft. intact. The petitioner does not dispute the same, but submits that the order of the District Magistrate, Malda, was wrongly interpreted by the authorities while monitoring the construction of the boundary wall. 8ft. width was not adequate for passage of ambulance and fire brigade.

The order of the District Magistrate, Malda is quoted below for convenience:-

“From the enquiry report submitted by O/C, RM, Malda and considering all the aspects of the case, the private respondents are informed that construction of a boundary was in their own expensed is allowed (along with Plot No.537 & 536) keeping the width of the road at least 8 feet intact for safe passage of ambulance and small fire brigade vehicles. The BL & LRO, Ratua-II is directed to make an arrangement to compensate in favour of the private respondents through the competent authority, if required. The BDO, Ratua-II and the Pradhan, Araidanga GP are directed to monitor the necessary compliance of this order.

Thus the matter is disposed and this also nullifies the previous order passed by the District

Magistrate, Malda in connection with WPA 14238 of 2021.”

Under no stretch of imagination can it be accepted that the District Magistrate, Malda had directed the authorities to monitor the width of the road in such a way that safe passage of ambulance and small fire brigade vehicle would be available. At least 8ft. width was to be kept intact, which was done.

The District Magistrate had specifically stated that the boundary wall could be constructed by the respondent Nos.9 to 11 by keeping at least 8 ft. wide road intact, for safe passage of ambulance and small fire brigade vehicles. The contention of the petitioner that 8 ft. wide is not sufficient for passage of ambulance and small fire brigade vehicles, requires modification of the order of the District Magistrate..

The petitioner's remedy would be to approach the District Magistrate, Malda for modification of the order upon proof of specific instances when such 8 ft. width was found to be inadequate for passage of ambulance and small fire brigade vehicle.

This Court cannot direct the panchayat authorities to take further steps as the order of the District Magistrate,

Malda has been complied with by the Pradhan and the Block Development Officer.

This Court has not considered the merits of the case.

The writ petition is, thus, disposed of.

This order is restricted only to the disposal of the writ petition.

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.)