

12.05.2023
Court No. 19
Item 17
CP

WPA No. 10915 of 2023

Sri Paritosh Chanda
Vs
The State of West Bengal & Ors.

Mr. Debasish Das
... for the Petitioner.

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
....for the State.

Despite service, none appears either on behalf of the panchayat authorities or on behalf of the respondent nos. 8 to 12.

As this court is not inclined to pass any mandatory directions as prayed for, but deems it fit to relegate the matter to the permission granting authority, this writ petition is taken up in their absence.

It appears from the police report that the panchayat authorities had issued a sanction for construction on Plot Nos. 184 and 189 in favour of the respondent nos. 8 on April 18, 2023. It also appears that two civil suits before the learned Civil Judge (Junior Division), Dantan are pending, namely, Title Suit No. 92 of 2022 and Title Suit No. 29 of 2023. The police report is taken on record.

It appears that an order of status quo has been passed in Title Suit No. 92 of 2022 restraining the

parties from changing the nature, character and possession of the suit land.

In Title Suit No. 29 of 2023 an injunction was passed against the writ petitioner from obstructing the construction of Bhupesh Jana and others. Such fact has not been mentioned by the writ petitioner in this petition. The petitioner has relied heavily on the order of status quo passed in Title Suit No. 92 of 2022 but has suppressed the fact that the petitioner was also restrained in another suit from obstructing the construction which was being raised by Bhupesh Jana and others.

Under such circumstances, it would not be proper for the writ court to pass further directions upon the panchayat authorities in this regard, unless the parties get their rights adjudicated in the civil suit and the ad interim order and/or orders of status quo are varied, vacated or modified.

The other allegation of the petitioner that despite there being an ad interim order of status quo with regard to the nature, character and possession of the property, the respondent nos. 8 to 12 are raising construction, is also not available in view of the subsequent order passed in Title Suit No. 29 of 2023. The orders are contradictory to each other and the petitioner appeared in the proceeding arising out of Title Suit No. 29 of 2023 but was not successful in

preventing the court from passing any order by placing reliance on the order passed in Title Suit No. 92 of 2022.

Upon perusal of the documents filed by the police authorities and the information slip which mentions the ad interim order passed in Title Suit No. 29 of 2023, this court is of the view that any order upon the panchayat authorities to decide the issue of unauthorized construction and illegal change of the user of the land from 'jal'to 'bastu', would amount to modifying the orders of the learned civil court. The learned civil court had permitted construction by the respondent nos. 8 to 12, by restraining the petitioner from obstructing such construction.

The petitioner is at liberty to approach the learned civil court for necessary variation, vacation and/or modification of the orders passed in the two suits.

The writ petition has not been decided on merits and the points raised shall be available to the petitioner at the appropriate stage.

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.)