

15.05.2023
Court No. 19
Item 23
CP

WPA No. 11118 of 2023

Buddhadeb Saha
Vs
The State of West Bengal & Ors.

Mr. Debabrata Sardar
Mr. Mrinal Kanti Maity
....for the petitioner.

Mr. Sandip Das
Mr. Sarthak Burman
....for the respondent no. 8.

The writ petition deals with allegations of violation of the order of injunction passed by the learned civil court. According to the petitioner, the panchayat authorities ought to have proceeded against the construction which were allegedly being raised by the respondent no. 8, by disobeying the order of injunction.

Learned advocate for the respondent no. 8 has handed over an order passed by the learned Additional District Judge, Diamond Harbour, inter alia, staying the operation of the order of injunction.

The averments in the writ petition do not indicate that the petitioner had ever approached the gram panchayat with the allegations that the respondent no. 8 had raised a construction either

without conversion and/or without sanction. The panchayat authorities are equipped to deal with unauthorized constructions but cannot decide the allegation of violation of the order of the learned civil court. The police authorities usually implement such orders if the learned civil court so directs.

The petitioner has neither approached the learned civil court with the allegation of violation of the order of injunction nor has any application been filed for implementation of the order of injunction. The petitioner has also not raised such point before the court of appeal below.

Thus, the writ petition cannot be entertained for lack of pleadings and evidence.

The petitioner is at liberty to approach the authority with the allegations which have been made from the bar, i.e., the construction is being raised without any conversion and in absence of any permission.

If such approach is made, the same shall be disposed of, in accordance with law upon granting adequate opportunity to all the interested parties including the respondent no. 8, to make appropriate submissions before the authority concerned.

Necessary steps shall be taken in accordance with Section 23 of the West Bengal Panchayat Act, 1973, and if the contention of the petitioner is found

to be correct, necessary orders shall be passed and communicated.

The entire exercise shall be completed within a period of four months from the date of receipt of the petitioner's application.

The court has not gone into the merits of the claims.

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.)