

11.04.2023
Item No.27
gd/ssd

WPA(P)/233/2021
SHREE SHREE TARA MATA
THAKURANI AND ORS.
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Sandip Das
..for the Petitioners.

Mr. Lalit Mohan Mahata,
Mr. Rudranil De,
Ms. Manali Ali
..for the State.

Mr. Aniket Mitra
..for the Respondent No.9.

1. By this writ petition styled as a public interest litigation the petitioners allege certain issues against the 9th respondent and primarily that the 9th respondent is blocking a public pathway leading to the PWD road.

2. The 9th respondent has filed affidavit-in-opposition questioning the very maintainability of the writ petition contending that there is no public interest involved and it is the private interest litigation and the attempt of the writ petitioners who claimed to be in control of the temple/mandir is to pass through the 9th respondent's property. In this regard, sketch prepared by a surveyor has been filed along with the affidavit-in-opposition which shows

that there is a narrow pathway on the northern side of the temple which connects the PWD road.

3. If according to the writ petitioners, there is a pathway as alleged by them, such a dispute cannot be adjudicated in the writ petition that too styled as public interest litigation.

4. Therefore, we cannot grant the relief sought for in the writ petition and we can only observe that neither the writ petitioners nor any other person nor the 3rd respondent can block the public pathway or the PWD road.

5. Further, it is pointed out by the learned Advocate for the 9th respondent that one of the writ petitioners, namely, the 6th respondent, Banasree Mondal, wife of Gourisankar Mondal has filed the Civil Suit being No.112 of 2020 pending before the learned Civil Judge (Senior Division), Diamond Harbour.

6. However, on going through the plaint, we find that the suit is one for partition and does not concern the present dispute.

7. Be that as it may, except the observations made above by us to the effect that none can obstruct or encroach the public pathway or the PWD road no other direction can be given in this writ petition.

8. With the above observation, the writ petition stands disposed of.

(T. S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)