

18.04.2023
Sl. No.92(ML)
srm

W.P.A. No. 13610 of 2022
Md. Safiuddin Ahamed alias Saffiuddin Molla
Vs.
The State of West Bengal & Ors.

Ms. Pooja Sah

....for the Petitioner.

Despite service, none appears on behalf of the respondents. Affidavit-of-service is taken on record.

The Court is not inclined to pass mandatory directions as prayed for, but deems it fit to send back the matter before the competent authority for necessary steps. Thus, the writ petition is taken up in the absence of the respondent No.4, who will be given adequate opportunity of hearing by the authority.

The petitioner submits that the Pradhan of Madarat Gram Panchayat, South 24-Parganas failed and neglected to consider the representation of the petitioner dated June 1, 2022, which is annexure P/6 at page 80 to the writ petition. Such representation was written as a reply to the notice issued by the Pradhan on May 20, 2022. By the said notice, the petitioner was asked to stop construction of the

boundary wall. The said notice was allegedly issued on the basis of an objection made by the respondent No.4.

The petitioner contends that the boundary wall was already in existence and there had been no objections from any quarter whatsoever. Only when the petitioner tried to raise the height of the boundary wall, the notice had been issued.

These issues cannot be decided by the writ court. However, the petitioner is entitled to make all his submissions before the gram panchayat. The competent authority will dispose of the matter upon causing an inspection in the presence of the petitioner as also the respondent No.4. A hearing shall be given to the parties and necessary orders shall be passed. The order shall be communicated to the petitioner and the respondent No.4.

If the petitioner can satisfy the authority that the boundary wall proposed to be constructed, was in accordance with law, then necessary clearance shall be given by the authority. If the petitioner had failed to comply with other formalities with regard to such extension of the boundary wall, the authority shall indicate to the petitioner about the necessary compliances. If the authority finds that there are disputes with regard to right,

title, interest, encroachment etc., the parties shall be asked to get their rights determined by a civil court.

The entire exercise shall be completed within a period of three months from the date of communication of this order.

The Court has not gone into the merits of the claims of the petitioner and the issues raised, shall be decided by the competent authority, independently.

A copy of the writ petition along with a server copy of this order be served upon the Secretary, Madarat Gram Panchayat, South 24-Parganas.

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.)