

16.08.2023
Item No.04
Court No.6.
S. De

M.A.T. 1440 of 2023
With
I.A. No. CAN/1/2023

Smt. Dipali Routh & Ors.
Vs
The Sate of West Bengal & Ors.

Ms. Usha Maiti,
Mr. Skaya Maity,
...for the appellants.
Mr. Lalit Mohan Mahato,
Mr. Rudranil De,
...for the State.

By consent of the parties the appeal and the connected application are taken up together for hearing.

A judgment and order dated May 17, 2023, whereby the writ petition of the appellants herein being WPA 26281 of 2022, was disposed of by a learned Single Judge, is the subject matter of challenge in this appeal.

The appellants had approached the learned Single Judge with the case that a water supply line given to them by the Panchayat authorities under the 'Sajal Dhara' project of the Central Government, has been disconnected by the private respondents acting in connivance with the Panchayat authorities. The appellants prayed for an order directing the Panchayat authorities to reconnect the water supply line.

The learned Judge called for a report from the concerned Block Development Officer on the following points :

“a) Whether the pipeline, which was installed allegedly through the rural moram road in front of the house of the petitioners had been done with the permission of the panchayat authorities under the ‘Sajal Dhara’ scheme and had been existing for the last six years.

b) Whether the Pradhan or any of the members of the said gram panchayat was involved with such disconnection.

c) Whether such pipeline interfered with the free supply of water to the houses of the villagers from the connections given under the ‘Sajal Dhara’ scheme.

d) Whether such pipeline had at all been laid over the private land of the respondent Nos.12 to 18. Before such report is prepared, the Block Development Officer shall hold an inspection in the presence of the petitioners, the respondent Nos.12 to 18, the Pradhan and other interested villagers, in order to ascertain the correct position.”

The Block Development Officer duly filed his report to the following effect :

“A) On the information derived from the Pradhan, Silulia Gram

Panchayat vide memo No.3151 dated December 30, 2022 and as per report of the Pradhan, Simulia Gram Panchayat, a submersible pump had been installed by the gram panchayat during the financial year 2020-21. However, no pipeline was laid by the gram panchayat and no one had taken any permission for laying the said pipeline from the concerned gram panchayat.

B) A report was also called for from the Block Land and Land Reforms Officer Bhagwanpour-I Block vide memo No.3152 dated December 30, 2022. As per the report of the Revenue Officer, Bhagwanpur-I Block, a pipeline existed on Plot No.437 of Mouza-Banamalipur through the middle of the said plot.

C) Neither the Pradhan or the members of the Simulia Gram Panchayat, was responsible for any disconnection.

D) The petitioners could always collect water from the main tank which had been constructed under the 'Sajan Dhara' project.

E) The pipeline which was allegedly destroyed, was under the possession and control of several raiyats including some of the respondents herein and the parties had used the said pipeline amicably.

F) The pipelines were by the side of the moram road.”

The appellants filed their exception to the said report as has been noted by the learned Judge.

It was submitted on behalf of the private respondents that the writ petitioners had tried to draw a separate connection from the main connection by laying the pipeline through common land belonging to all the parties. In the absence of demarcation, the private respondents objected to such installation of individual pipeline. Hence, the dispute arose. The writ petitioners could always draw water from the common tap.

Having considered the material on record and the respective contentions of the parties, the learned Judge disposed of the writ petition with the following observations :

“There are disputed questions of facts which cannot be gone into by this Court. It is clear that the respondent authorities have neither laid the pipelines nor implemented any project under the ‘Sajal Dhara’ scheme. No disconnection had also been effected by such authorities. The dispute is between the petitioners and the respondent nos.12 to 18.

The petitioners are at liberty to approach the competent civil court in

accordance with law. As the water connection was neither installed nor disconnected by the panchayat authorities, the question of restoration of the same, does not arise. The panchayat authorities cannot interfere in a private dispute dispute with regard to user of the land in question.”

Being aggrieved, the writ petitioners have come up before us by way of this appeal.

From the affidavit of service filed in Court today, we find that the private respondents have been served. However, nobody appears for the private respondents. The State is represented.

We have heard learned counsel for the appellants and the State. It is submitted on behalf of the appellants that there are elderly people in the household of the appellants and disconnection of water supply line is creating grave hardship for them. That was the only source of drinking water for them. The Panchayat should be directed to forthwith reconnect the water supply line.

It is also submitted that several representations have been made on behalf of the appellants to the competent authorities but in vain.

Having considered the material on record, we are of the opinion that the learned Judge was right in not interfering in the matter. Disputed questions of

facts exist which the writ Court cannot conveniently adjudicate. Hence, we do not interfere with the order of the learned Single Judge.

However, since the appellants say that the water supply line to their household has been disconnected, without going into the dispute as to who disconnected the line, we grant liberty to the appellants to make a fresh comprehensive representation, with supporting documents, if any, to the respondent nos.7 and 10 being the concerned Block Development Officer and the Pradhan, No.6, Simulia Gram Panchayat, within a week from date. If such a representation is made, the authorities shall take a reasoned decision thereon in accordance with law within a period of two weeks from the date of receipt of the representation, after giving an opportunity of hearing to any one of the appellants, any one of the private respondents and any other concerned party, or their authorized representatives. Since the question of drinking water is involved, we would expect the authorities to act speedily and sympathetically in the matter.

Since we have not called for affidavits, the allegations contained in the stay application are deemed not to be admitted by the respondents.

MAT 1440 of 2023 is disposed of along with the application being I.A. No. CAN/1/2023.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)