

10-01-2024
Item No.11
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.464 of 2024
Ashok Kumar Maity
-vs-
The State of West Bengal & Ors.

Sk. Jayed Hossain ...for the petitioner

Mr. K.J. Yusuf
Ms. Rupsha Chakraborty ...for the State

Affidavit of service filed in court be taken on record.

Report filed by the Block Development Officer, Namkhana Development Block signed on January 9, 2024 is also taken on record.

The petitioner claims to be a co-owner of plot nos. 1723, 1724 and 1744 under RS Khatian No.178, LR Khatian Nos. 928, 698 and 626 of Mouza Dakshin Shibpur under Freserganj Gram Panchayat. A title suit in connection with the said property being T.S. No.293 of 2015 is pending consideration before the learned civil court wherein an order of injunction for maintaining status quo by the parties was passed in the year 2015 and the same is subsisting till date.

The petitioner alleges that the Fraserganj Gram Panchayat is taking steps to construct concrete road over the said plot of land. An objection was raised before the respondent-authorities. The same is yet to be considered. None represents the Gram Panchayat.

Learned advocate representing the State has obtained instructions from the Block Development Officer, Namkhana Development Block who has collected

information from the Gram Panchayat wherefrom it appears that the Gram Panchayat is, indeed, taking steps to construct concrete road and approval for the same has been received.

Admittedly, it appears that the Gram Panchayat is not a party to the suit and may not be bound by the directions passed by the court; but as it has been brought to the notice of the concerned Gram Panchayat as well as the Block Development Officer that a civil suit in respect of the same property is pending consideration with an order of injunction, accordingly, the Gram Panchayat ought not to have taken any steps for constructing the concrete road running through the said plot of land. Making the road concrete may create legal complications and may delay in adjudication of the dispute before the learned civil judge.

In view of the above, the Block Development Officer, Namkhana Development Block, South 24 Parganas, the eighth respondent herein, is directed to ensure that the Pradhan of the Fraserganj Gram Panchayat does not proceed to construct the concrete road which is passing through the plot nos.1723, 1724 and 1744 being sub judice before the learned civil court. The Pradhan may proceed construction with other portions of the land which are not connected with the pending civil suit.

WPA No.464 of 2024 is disposed of.

Parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

