

Item No.16
17.01.2024
Court. No. 24
GB

W.P.A. 12162 of 2023

Rajib Majumdar
Vs.
The State of West Bengal & Ors.

Mr. Atanu Biswas

...for the Petitioner.

*Mr. Rajarshi Basu,
Mr. Parikshit Goswami*

...for the State.

Mr. Sarban Bhattacharjee

...for the respondent nos.6 & 7.

Affidavit-of-service filed in Court today, be kept with the record.

The writ petitioner complains that the private respondents are raising construction over his plot of land without obtaining any sanction from the gram panchayat.

A title suit in between the petitioner and the private respondents is pending consideration before the learned civil court and an order was passed by the court on February 7, 2023, restraining the defendants, being the private respondents herein, from disturbing the peaceful possession of the plaintiff, the petitioner herein, in respect of the suit property.

It has been submitted that the private respondents are still continuing with the construction work in violation of the order of injunction.

Reliance has been placed on the order passed by the learned Executive Magistrate, Alipore in a proceeding under Section 144(2) of the Code of Criminal Procedure on

February 15, 2023, directing the police to see that the civil court's order is strictly carried out and to keep strong vigil over the suit property.

The learned advocate representing the private respondents submits, upon instruction that, the construction is being raised over the private land of the private respondents in accordance with the plan sanctioned by the gram panchayat. The allegation of unauthorized construction is denied.

Upon hearing the parties, it appears that there is a dispute with regard to the plot number over which the alleged construction is being made. The petitioner claims that the construction is being made over his private property, whereas, the private respondents claim ownership of the land over which the construction is being made.

In such a situation, where an issue has been raised with regard to the identification of the plot in question, it will not be appropriate to direct the panchayat to see whether the construction is being made in accordance with the plan or not. Till a decision is arrived at with regard to the ownership of the plot where the construction is being made, it will not be proper for the Pradhan to enter into the dispute of the unauthorized construction.

The petitioner appears to have approached the learned civil court and the suit is pending. It will be open for the petitioner to pray for an appropriate order in the pending suit or to initiate separate proceeding for redressal of his grievances, if permissible in law.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Amrita Sinha, J.)