

S/L 3
06.05.2024
Court. No. 22
Sourav

WPA 13987 of 2023

Sis Mohammad Sk
Vs.
The State of West Bengal & Ors.

Mr. Shahan Shah
Mr. Sk. Abumusa

...for the petitioner.

Md. Manuwar Ali

...for the State respondent nos. 1, 2, 3 and 6.

Mr. Shibasis Chatterjee

...for the respondent no. 7.

1. The writ petitioner, the respondent/State and the private respondent no. 7 are represented by their respective learned advocates.
2. The affidavit of service as filed today is taken on record.
3. None appears on behalf of the other respondents despite service.
4. By filing the instant writ petition, the writ petitioner has prayed for an appropriate order for taking steps to prevent alleged illegal construction at the instance of the private respondent no. 7 over the R.S. Dag No. 936 and L.R. Plot No. 780/972 in Mouza – Alipur, Police Station – Farakka, District – Murshidabad.
5. In course of hearing, learned Counsel for the writ petitioner at the very outset draws attention of this Court to the annexure P-2 at Page 19 being a representation made by the writ petitioner with the District Collector, Murshidabad as well as the Panchayat Pradhan of the Imamnagar Gram Panchayat together with the S.P. Murshidabad and other officials. Since no action has been

taken by the said authorities pursuant to such representation, the writ petitioner approached this Court by filing the instant writ petition under Article 226 of the Constitution of India.

6. In course of hearing, learned Counsel appearing on behalf of the private respondent no. 7 has handed over a photocopy of the plaint as filed in Title Suit No. 113 of 2020 by the present writ petitioner along with other plaintiffs against private respondent and the said suit is pending before the learned Civil Judge (Junior Division), 2nd Court at Jangipur. Let the same be taken on record.
7. On perusal of the copy of the said plaint, it reveals that the subject matter of the suit property as involved in the said title suit as well as in the instant writ petition are identical. It appears from the photocopy of the certified copy of the order no. 20 dated 30.09.2022 as passed in Title Suit No. 113 of 2022 that prayer for temporary injunction as filed by the writ petitioner along with other co-plaintiffs was turned down on contest by the said trial Court.
8. On perusal of the prayer portion of the plaint of the said title suit, it appears that the said suit was filed for declaration of title of the plaintiffs over the suit property, permanent injunction restraining the defendants from making construction over the suit property and other ancillary reliefs.
9. Since the reliefs claimed in the said suit as well as in the instant writ petition are identical and since the present petitioner has already chosen common law forum for

ventilating his grievance, this Court finds that the instant writ petition is not maintainable.

10. Accordingly, the instant writ petition being **WPA 13987 of 2023** is dismissed.

11. Urgent photostat certified copy of this order, if applied for be given to the parties, upon compliance of necessary formalities.

(Partha Sarathi Sen, J.)