

ML 402
28.02.2024
Ct. No. 15
adeb

W.P.A. 24525 of 2016

**Subal Chandra Mukherjee
Vs.
The State of West Bengal & Ors.**

Mr. Sajal Kumar Pandit
Mr. Mahim Sasmal
Mr. Subrata Ghosh
...for the petitioner

Mr. Rajarshi Basu
Mr. S.T. Mina
...for the State

The writ petition is heard in presence of the learned advocates representing the petitioner and the State-respondents.

However, private respondents are not represented today.

Learned advocate representing the petitioner has drawn attention of this Court to one representation dated 11th June, 2015 addressed to the concerned gram panchayat alleging unauthorized construction was being made by one Abhijit Halder being one of the private respondents. Petitioner has prayed for necessary direction to be passed upon the panchayat authorities in order to restrain said Abhijit Halder from making further construction.

However, on perusing the representation dated 11th June, 2015 it appears that the land on which Abhijit Halder has made construction as alleged is not the land

of the petitioner, but it is the land of one Soma Dutta. It is also stated that petitioner made payment in favour of Soma Dutta for purchasing land in question, but ultimately ownership of the land has not been transferred due to failure of Soma Dutta to execute deed of conveyance which resulted in institution of Title Suit No. 27 of 2014 and the same is pending.

In view of pendency of the aforesaid title suit, at best, petitioner can take out an appropriate application praying for injunction against the private respondents in order to restrain them from making further construction in the pending suit.

Due to pendency of the suit writ petition is not maintainable. There is another aspect which is required to be addressed that the land in question as it has been admitted in the representation dated 11th June, 2015 on which Abhijit Halder made construction, is not the land of the petitioner till date. Therefore, based on such complaint made before the concerned gram panchayat, no decision can be taken by the panchayat authorities.

In view of aforesaid discussion, the writ petition stands dismissed.

However, this order shall not preclude the petitioner to take steps in accordance with law in the pending suit against the construction made by the private respondents.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)