

D/L 30
07.03.2024
Court No.24
Sayandeep

WPA 27255 of 2023

Madan Mondal
Vs.
The State of West Bengal & Ors.

Mr. Sk. Kiran

...for the petitioner

Mr. Arindam Mondal
Mr. Arindam Mitra

.....for the State

Mr. Baidurya Ghosal
Ms. Aatrejee Dutta
Mr. Saikat Mukherjee

.....for the respondent Nos. 7, 8 & 9

The reasoned order passed by the Pradhan of the Gram Panchayat dated 22nd March, 2023 is impugned in the instant writ petition. The said order was passed in compliance of the direction passed by this Court on 20th December, 2022 in WPA 27668 of 2022 filed by the petitioner.

The Panchayat caused a spot inspection and granted opportunity of hearing to both the parties. The Pradhan was of the opinion that the construction made by both the parties cannot be permitted to continue without a valid sanctioned plan.

The petitioner is aggrieved by the same. It has been submitted that the petitioner filed the writ petition alleging unauthorized construction at the behest of the private respondent. The Panchayat could not have passed any order against the petitioner to stop of the construction work.

According to the petitioner, the issue is with regard to making construction by encroaching the common passage.

The petitioner submits that the Gram Panchayat ought to have restricted the private respondent from making any construction over the common passage.

None represents the private respondent.

Learned advocate representing the Pradhan of the Gram Panchayat submits, upon instruction that, neither the petitioner nor the private respondent have any plan sanctioned in their favour for raising construction.

Upon hearing the submission made on behalf of the parties and upon perusal the materials on record, it appears that the petitioner primarily complains of encroachment of the common passage. Whether the passage in question is common to the parties is to be adjudicated by a competent Civil Court. Neither the Gram Panchayat nor the Pradhan is the competent authority to decide the title and ownership of the common passage.

The Pradhan rightly passed the order restraining the parties from raising construction as none obtained any sanctioned plan for making construction.

In view of the above, the Court does not find any error in the order passed by the Pradhan of the Gram Panchayat. The Court is not inclined to exercise jurisdiction.

The writ petition fails and is hereby dismissed.

It will open for the parties to approach the competent Civil Court for relief, if so advised.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)