

AD-8
Ct No.36
28.03.2025
(SSS)

RVW No. 206 of 2023
In
WPA 6307 of 2023
With
CAN 1 of 2023
With
CAN 2 of 2023

Kinkar Senapati
Vs.
The State of West Bengal
Service through the Principal Secretary,
Panchayat and Rural Department,
Government of West Bengal

Mr. Tapas Kr. Roy,
Mr. Mritunjoy Saha
.....For the Appellant.

1. This is an application for review of the order dated April 17, 2023, passed in WPA 6307 of 2023. The writ petition was disposed of on the basis of a report filed by the Pradhan, Pratappur-1 Gram Panchayat. The panchayat authorities had constructed a cemented road for use of all the villagers. Allegedly, Shital Manna and Dipak Manna had erected a bamboo fencing on the 'baram' path which was later made into a cemented 'baram' path. The road was situated in the western side of the house of the respondent No. 9 in the writ petition. The petitioner alleged encroachment by the

respondent Nos. 8, 9 and 10 of the writ petition. The panchayat authorities did not mention anything about encroachment in the report.

2. By the said order, the petitioner was granted liberty to approach the Gram Panchayat for removal of the bamboo fencing from the road, in terms of Section 25(2) of the West Bengal Panchayat Act, 1973. The panchayat authorities were directed to act and proceed in accordance with law, upon giving all the parties a fair opportunity of being heard.

3. In my opinion, there is no justifiable ground for review. The petitioner was granted liberty to approach the panchayat authorities for adjudication of the allegation that the road had been encroached by private individuals. The panchayat authorities are empowered under the law to take action by removing any encroachment from the road.

4. Under such circumstances, such disputed question of fact could not be decided by the writ court and the matter was relegated to the authority empowered by law to take steps if encroachment of a public road was established. Thus, this application is dismissed.

5. A party can seek review of an order on grounds of discovery of new evidence, error, apparent on the face of record or for sufficient reasons, analogous to the first two. The grounds pleaded amount to asking

this court to enlarge the scope of the writ petition and to pass such orders which are beyond the pleadings. In review, a court cannot rehear the entire writ petition.

6. The writ petitioner submits that the civil suit was withdrawn prior to the order in the writ petition. Thus, this fact shall be read along with the order dated 17th April, 2023 and the order is accordingly modified to the extent that the recording that a civil suit was pending be read as, “the civil suit was allegedly withdrawn.”

(Shampa Sarkar, J.)