

07.07.2025

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Ct.No.7
sdas

WPA 23323 of 2022

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

Mr. Sarthak Burman
.....for the petitioner

The present writ petition has been filed praying for a writ of mandamus directing the respondents to remove the fencing encircling a land belonging to the local Panchayat, as the same, according to the petitioner, is obstructing free ingress and egress to the petitioner's residence.

Mr. Burman, learned Advocate representing the petitioner, submits that initially one individual encroached upon the land belonged to the local Panchayat and made a construction thereon and thereby caused obstruction to the petitioner in getting free access to his residence.

He further submits that based on a complaint lodged by the petitioner, one proceeding was initiated and this unauthorized construction was removed. Petitioner was satisfied since this action was taken with promptness by the respondent authorities. He further submits that thereafter Irrigation Department itself encircled the land by fencing. He submits that, as a result of the fencing, the petitioner continues to face obstruction and inconvenience

in accessing his residence freely. He further prays for a direction to be issued to the Irrigation Department to remove the said fencing.

He also submits that the petitioner approached the concerned respondents. However, despite being so approached, the respondents refused to remove the fencing on the pretext that alternative path and/or way and/or alley is available which the petitioner can use for ingress and egress to his residence. He submits that a report may be called for to ascertain whether there is any justification in the petitioner's claim for a direction upon the concerned respondents to remove the fencing.

Heard the learned advocate appearing for the petitioner and perused the materials on record.

Taking note of the facts and circumstances of the case, I am not inclined to accept the contention advanced by the petitioner. Whether any alternative path, way, or alley is available is essentially a question of fact. Similarly, whether the petitioner can claim an easement right over the land belonging to the local Panchayat, or whether the petitioner can compel the respondents to keep that piece of land vacant in perpetuity, are disputed questions of fact to be adjudicated by the competent court of law upon evaluation of evidence. A Writ Court is not the appropriate forum to determine such disputed questions of fact, which require assessment and appraisal of evidence.

In view of such fact, the writ petition cannot be entertained and accordingly the same is dismissed.

It is clarified that this order shall not preclude the petitioner from approaching the appropriate forum in accordance with law to have his grievance redressed.

There shall be no order as to costs.

(Partha Sarathi Chatterjee, J.)