



**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

MAT 2173 of 2024

With

IA No.: CAN 2 of 2024

Amal Kumar Ghosh

Vs.

The State of West Bengal & Ors.

For the appellant : Mr. Mainak Ganguly, Advocate
Mr. Chirantan Sarkar, Advocate

For the State : Mr. Santanu Kr. Mitra, Ld. Sr. Govt. Advocate
Mr. Amartya Pal, Advocate

Heard & Judgment on : February 6, 2025

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the writ petitioner and directed against the order dated September 18, 2024 passed in WPA 10401 of 2022.
2. Writ petitioner approached the Writ Court complaining that, the Gram Panchayat encroached upon his property to construct a drain.
3. Writ Court considered reports submitted in this regard and found that, there was no wrong doing.



4. In appeal, by an order dated January 13, 2025, we called upon the State authorities to undertake a fresh demarcation of the immovable properties claimed to be owned by the appellant as also the width of the road, after taking assistance of a registered *Amin* in the Office of the concerned BL & LRO. If no registered *Amin* in the concerned Office of the BL & LRO was available, then assistance of a registered *Amin* from any other Office of any other BL & LRO was allowed to be obtained.
5. Pursuant to our order dated January 13, 2025, State submitted a report dated January 27, 2025, on the previous day which be taken on record. Copy of such report was made over to the learned Advocate for the appellant, who took time on the previous date for instruction.
6. In course of hearing today, the learned Advocate appearing for the appellant submits that, one of the encroachments shown in red ink on the site plan is that of his client. Appellant would remove such encroachment at his own costs. He, however, draws the attention of the Court to a photograph and submits that, drain of the Panchayat is encroaching upon the property belonging to the appellant. He also draws the attention of the Court to the site plan and submits that, the drain was not shown in such site plan.
7. In view of the stand taken by the appellant that, he would demolish the unauthorized construction made by him and as shown in red ink, we permit the appellant to do so.



8. Appellant will remove such encroachment within four weeks from date.
In default, Gram Panchayat authorities will remove such encroachment at the costs of the appellant. Gram Panchayat will take necessary steps, in accordance with law, to remove the other encroachment also.
9. So far as the drain is concerned, concerned BL & LRO will take the assistance of the same *Amin* and find out whether drain of the Panchayat encroaches upon the land belonging to the appellant or not. In the event, it is found that, the drain is encroaching on the property of the appellant, then, the Gram Panchayat will remove such drain from such property.
10. The exercise of identification of the drain on the property be done within seven days from date. Removal of the drain, if it is found to be encroaching upon the property of the appellant, should be completed within four weeks thereafter.
11. **MAT 2173 of 2024** and **IA No.:CAN 2 of 2024** are disposed of.

(Debangsu Basak, J.)

12. I agree.

(Md. Shabbar Rashidi, J.)