

Daily Supplementary List 25
Bpg.

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2020

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
(Via Video Conference)**

W.P.A. No. 2023 of 2020

**Manik Pal and another
Versus
The State of West Bengal and others**

Mr. Dilip Kumar Sinha.
...for the petitioners.

Mr. Raja Saha,
Ms. Tanusri Chanda.
...for the State.

The grievance of the petitioners is that the private respondents are raising unauthorised constructions over a space designated as a public road, thereby blocking the ingress and egress of the petitioners in respect of the petitioners' property.

Learned counsel for the petitioners places reliance of Section 3 of the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962 in this regard and submits that the Collector (in this case the Sub-Divisional Officer), even on information derived from any person or persons, can initiate a proceeding for eviction of unauthorised occupants (in the present case, the private respondents).

Such steps having not been taken despite the representation of the petitioners, the present writ petition has been filed.

Learned counsel appearing for the respondent-authorities controverts such submissions on fact as well as law.

A cursory glance of Section 3 of the 1962 Act shows that the same operates in respect of public lands, that is, properties owned by public authorities and, inter alia, confers power on such authorities to take steps for eviction of unauthorised occupants from public lands.

Although Section 3 of the said Act provides for information being one of the sources for the Collector to take steps for eviction of unauthorised occupants, it is entirely for the collector to decide prima facie whether any occupation is 'unauthorised' under the purview of the Act.

What the petitioners are trying to espouse is a personal dispute with the private respondents with regard to allegations as to the access to the petitioners' premises having been blocked by the private respondents. Such grievance being in the nature of a private dispute or, at best, of criminal nature, the petitioners do not have *locus standi* to invoke the provisions of the 1962 Act at all.

The writ court cannot, under any stretch of imagination, compel the Collector to come to the finding that the private respondents are occupying public lands in an unauthorised manner, merely at the instance of the petitioners. Such power is vested in the Collector, and not the writ court, to be exercised in appropriate cases.

Undoubtedly, it is open to the petitioner to take recourse to a civil action and/or to lodge a complaint with the police authorities in the event the encroachment on the petitioners' premises is illegal. However, it is not a matter of right of the petitioners to have a direction on the respondent-authorities to take steps against the private respondents under the 1962 Act.

Accordingly, WPA 2023 of 2020 is dismissed with liberty to the petitioners to approach the appropriate civil court or criminal forum with the grievances raised against the private respondents in the present writ petition.

There will be no order as to costs.

Urgent website certified copies of this order, if applied for, be given to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)