

23.03.2021
p.b.
Sl. No.146

W.P.A. 5522 of 2021

Goutam Sen & Ors.
Vs.
The State of West Bengal & Ors.

Mrs. S. Chakraborty,
Mr. Imtikhab Amam Mia.
.....for the petitioners
Mrs. Chama Mooklherji,
Mrs. Prasamita Pal.
.....for the State.

The allegation of the petitioners is that the panchayat is constructing a road under the Mahatma Gandhi National Gramin Scheme on their private land.

The petitioners rely upon the judgment and decree passed by the learned Civil Judge on 16th July, 1991 in Title Suit No.36 of 1988 whereby the plaintiff's title in the suit property mentioned in the schedule of the plaint was declared.

The defendants were permanently restrained from disturbing the plaintiff's possession in the suit property in any manner whatsoever.

The State of West Bengal and the Junior Land Reforms Officer, Sankrail were impleaded as defendants in the said suit.

The petitioners presently claim that a portion of the land which was decreed in their favour has been fenced by

the gram panchayat for the purpose of construction of the road under the aforesaid scheme.

The petitioner objected to the same by filing representation before the respondent authorities by letter posted on 15th December, 2020 and complains that the same has not been considered by the respondent authorities till date.

The learned advocates representing the State respondents do not have any instructions in the matter.

None appears on behalf of the panchayat despite service.

As it appears from the documents annexed to the writ petition that the right of the petitioners in the land in question has been declared by the Civil Court accordingly, the panchayat or the State respondents ought not to encumber the same by fencing it for making construction of public road thereon, without acquiring the same in accordance with law.

In view of the above, the instant writ petition is disposed of by directing the District Land & Land Reforms Officer, Howrah being the respondent no.2 herein to enquire into the matter and take necessary steps for consideration of the representation filed by the petitioners upon consideration of the judgment and decree passed by the learned court below, at the earliest, but positively

within a period of twelve weeks from the date of communication of the copy of this order.

The aforesaid respondent shall pass a reasoned order and communicate the same to the petitioners immediately thereafter.

As it appears that the title of the property has been already declared in favour of the petitioners the respondent authorities are restrained from making any construction over the plots as described in the schedule of the plaint till a decision is taken by the respondent no.2 upon consideration of the representation made by the petitioners.

The Officer-in-Charge of the Sankrail Police Station shall ensure that the restraint order passed herein is strictly complied with by the respondent authorities.

W.P.A. 5522 of 2021 is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)