

22-01-2021
Item no.17
Subrata

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.3925 of 2019
Md. Taslim & Ors.
-vs-
State of West Bengal

Mr. Arka Kumar Nag ...for the petitioner

Mr. Chandi Charan De
Mr. A. Sarkar ...for the State

It is the case of the petitioners in this writ petition that by a communication dated January 15, 2016 the Deputy Collector & Deputy Magistrate, D.I. Fund Department, Darjeeling granted permission them to construct a fencing wall and shed for shelter of workers in respect of D.I. Fund Plot No.13 and 20 area measuring more or less 1.83 acres at Sevoke D.I. Fund Bazar.

It is alleged that, on the basis of the said letter dated January 15, 2016, petitioners commenced the work of fencing and construction of shed. Subsequently, the Additional District Magistrate (LR), Darjeeling informed them to appear before him on May 26, 2016 with regard to the said land. Petitioners appeared before the said Additional District Magistrate on May 26, 2016 when they were informed that the permission granted by the Deputy Collector & Deputy Magistrate, D.I. Fund Department was not proper. It is alleged that, subsequently in the year 2016, the fencing and the construction work put up by the petitioners on the said plot of land was demolished by the State. Petitioners claim that such action of the State is contrary to the Rule of Law. By the letter of the demand for justice dated August 2, 2018 the petitioners requested the State authorities to take due steps to reconstruct the sheds

and wall fencing, failing which they are entitled to compensation amounting to Rs.12,00,000/- with interest in terms of the Interest Act.

In the backdrop of the facts of the present writ petition, learned counsel appearing for the petitioners prays for a direction upon the respondent no.15 – Joint Secretary to the Government of West Bengal, Department of Land and Land Reforms and Refugee Relief and Rehabilitation – to consider the said demand of justice dated August 2, 2018.

Considering the facts of the case, particularly the demand for justice letter dated August 2, 2018, it is evident that the petitioners have raised a money claim for damage of Rs.12,00,000/- against the State. Such claim of the petitioners on account of damages is an issue involving disputed questions of fact and law which cannot be adjudicated by this court under Article 226 of the Constitution of India.

For the reasons aforesaid, the writ petition stands dismissed.

It is, however, made clear that this order shall not stand in the way of the petitioners filing any civil suit for seeking remedy raising their claim for damages as stated in the demand for justice dated August 2, 2018.

There shall be no order as to costs.

Certified website copy of this order, if applied for, shall be given to the parties.

[Ashis Kumar Chakraborty, J]

