

03-08-2021
ct no. 13
Sl.4
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WPA 11719 of 2021

Tapas Ghosh

-Versus-

Union of India & Ors.

(Via Video Conference)

Mr. Vikash Singh,
Mr. Rahul Sharma

...for the petitioner

Mr. Y.J. Dastoor, Id. ASG,
Mr. Siddhartha Lahiri,
Ms. Anamika Panday

...for the respondents

Mr. Debajyoti Basu

....for the Intervenor

The petitioner complains that the ‘approach road’ to reach Kanchrapara-Bongaon Road by the residents of Belemath village is being restricted by the Army authorities.

Counsel for the Army submits that a right of passage was allowed on humanitarian grounds through the Army Barracks. However due to security reasons, a fresh metal road has been or is being constructed to allow the petitioner’s access to the aforesaid Kanchrapara-Bongaon Road.

Counsel for the petitioner submits that the said road is about 1 kilometer longer than the road through the Army barrage.

This Court is of the view that the petitioners cannot have any enforceable right of easement through the Army Barracks given obvious security concerns expressed. The petitioner shall use the

new metal road constructed by the Army in place and stead of the existing road through the Army Barracks.

Counsel for the petitioner further submits that the construction of the metal road has either not started or has not yet been completed.

In that view of the matter, the petitioners until construction and completion of the said metal road, shall be entitled to use the existing passage through the barracks. However, if it is found that the metal road has already been constructed, the petitioner's right of easement through the Army Barracks shall cease forthwith.

With the aforesaid directions, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)