

S/L 12
02.08.2021
Court. No. 19
GB

W.P.A. 12003 of 2021

Shri Siddharthashankar Baral & Ors.
VS
Dainhat Municipality & Ors.

(Through Video Conference)

*Mr. Soumava Mukherjee,
Mr. Rudranil Mitra.*

...for the Petitioners.

*Mr. Tapash Kumar Bhattacharya,
Mr. Aviroop Bhattacharya.*

...for the Municipality.

*Mr. Gausul Alam,
Mr. Yusuf Ali.*

...for the State.

Affidavit-of-service filed in Court today be kept with the record.

Liberty is granted to the petitioners to add the Block Land and Land Reforms Officer, Dainhat Municipality as the respondent no.4.

The allegation of the petitioners is that the Dainhat Municipality has forcefully encroached into the land of the petitioners situated in Ward No. 12 under the said municipality.

It is submitted by the petitioners that the land runs parallel to the municipal road and the municipal authorities taking advantage of the existence of the road started encroaching into the land of the petitioners thereby making certain constructions. According to the learned advocate for

the petitioners, without proper acquisition under the law, the land of the petitioners could not have been taken away forcefully by the municipal authorities.

Mr. Tapash Bhattacharya, learned advocate appearing for the Dainhat Municipality submits that on June 2021 an inspection had been arranged. The Chairman of the Board of Administrators issued a notice upon the petitioner and others to be present for a survey to be held in Ward No.12 on June 20, 2021 at 9.00 a.m. in front of Southern boundary of Dainhat High School. Mr. Bhattacharya hands up a bunch of papers to show that a survey was made in presence of some persons of the locality but the petitioner was absent at the survey. Thereafter, the land of the municipality was demarcated at the survey and accordingly a work order was issued for construction of a drain. The construction of the drain according to the municipality is complete and the contractor has already handed over the possession. He further submits that the petitioners did not have any right over the plot of land as the survey was done by an Amin on the portion of Nilkuthi road over which the alleged drain has been constructed. Mr. Bhattacharya undertakes to hand over a set of papers submitted before this court, to the learned advocate on record for the petitioners.

Having gone through the rival contentions of the parties and having perused the documents submitted by the municipality, this Court finds that a survey was made and the area over which the municipality has constructed was

demarcated. However, the petitioners were absent during the survey. The petitioners are granted liberty to approach the Block Land and Land Reforms Officer, Dainhat Block, the added respondent by filing a composite representation ventilating their grievances. The petitioners are at liberty to pray for demarcation of their land. The Block Land and Land Reforms Officer shall deploy an Amin to make the necessary demarcation in presence of the petitioners, other persons in the locality and also the municipal authorities. The demarcation shall be made by comparing the title deed, record of rights and documents supplied by the petitioners, with the mouza map, municipal map and all documents and land records available in the office of the Block Land and Land Reforms Officer. A report shall be prepared and handed over to the parties. The entire exercise shall be completed within a period of six weeks from date of communication of this order. A hearing shall be held and a reasoned notice shall be communicated to the parties.

The petitioners are directed to serve a server copy of this order as also the writ petition upon the Block Land and Land Reforms Officer.

The writ petition is disposed of.

There will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)