

S/L 9
01.09.2021
Court. No. 19
GB

WPA 12272 of 2021

Harekrishna Halder & Anr.
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

*Mr. Gazi Faruque Hossain,
Ms. Priyanka Mandal.*

...for the Petitioners.

Mr. Dyutiman Banerjee.

...for the Respondent Nos.6 to 9.

*Mr. Pantu Deb Roy,
Mr. Subrata Guha Biswas.*

...for the State.

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

The writ petition has been filed challenging forceful entry and construction of a concrete road over the land of the petitioners.

It is contended that the Panchayat authorities without granting any compensation to persons proceeded with acquisition of the said land.

Mr. Banerjee, learned advocate appearing for the Panchayat authorities submits that no new construction of a road has taken place, only a mud road was repaired and cemented.

Mr. Deb Roy, learned advocate for the State respondents also submits on instruction from the Block Development Officer and Block Land and Land Reforms

Officer, that the road has been existing in the said premises since long and no complaint has ever been received from the petitioners.

However, it is the contention of the petitioners that the law provides that if Panchayat authorities require a private land, then the same has to be acquired upon payment of appropriate compensation.

It is submitted by the petitioners that the Panchayat authorities ought to have followed the provisions of Section 44 of the West Bengal Panchayat Act, 1973 by at least negotiating with the petitioners before encroaching into the land and cementing the road.

The Panchayat authorities on the other hand submit that the petitioners never objected to such cementing.

In any event, the Court is of the view that if a private property of a person is taken away by the Panchayat authorities, the same has to be done by a legal procedure, unless the person whose land is being taken away gives permission or agrees to the same.

Under such circumstances, the writ petition is disposed of with a direction upon the petitioners to approach the Collector/District Magistrate, South 24 Parganas with their grievances and the District Magistrate shall act and proceed in accordance with law and pass a reasoned order upon hearing the petitioners, the Panchayat authorities and/or any other interested persons. The question whether consent was taken from the petitioners and a negotiation

was done is not gone into. The District Magistrate must also look into that aspect. The said application shall be disposed of within a period of two months from date of receipt of the application by the petitioners. The allegations of damage to the trees and orchard of the petitioners shall also be looked into by the District Magistrate.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)