

02.12.2021
Court No. 19
Item no.05
CP

WPA 14500 of 2021

Naosar Haldar & anr.
Vs.
The State of West Bengal & ors.

Mr. Soumik Ganguli
Mr. S. Nandy

.....for the petitioners.

Mr. Saikat Chatterjee
Ms. Sima Adhikari

....for the State.

Despite service on two previous occasions, none appears either on behalf of the panchayat authorities or the respondents 6 to 9. The second affidavit-of-service is taken on record.

A report has been filed by the Block Land & Land Reforms Officer. The same is taken on record.

From the report it appears that the petitioners are the owners of approximately 2 decimals of land of Dag No. 253 of Mouza – Chotkhanda, J. L. No. 215, L. R. Khatina NO. 1649 & 1650. A Homeopathy clinic is being run on the land of the petitioners. That the respondents Nos. 6 to 9 have erected a temporary shed on a portion of the land and a club under the name of Chotkhanda Ekta Club is using the same. The report further clarifies that an enquiry was made

by the Block Land & Land Reforms Officer along with the Revenue Inspector, Durgapur and the Amin of his office. The area on which the homeopathy clinic is running had been demarcated. The club house was also found on 0.01 acres of land. The sketch map shows that a portion of the club has encroached into the G.T. Road.

The petitioners are at liberty to move the appropriate authorities with regard to the encroachment on the G.T. Road. The State respondents shall also ensure that the PWD authorities take it upon themselves to enquire into this alleged encroachment on the PWD road and proceed in accordance with the provisions of law upon giving an opportunity to all concerned to make their submissions before the PWD in this regard, in terms of the relevant law.

With regard to the alleged construction of the club on the land of the petitioners, the dispute with regard to the title, possession or encroachment shall not be gone into by the panchayat authorities, but the panchayat authorities are duty bound to ensure that no unauthorized construction takes place.

It is submitted by the petitioners that although the club appears to be a temporary tin shed structure, the internal structures are made of concrete. Thus, this issue is required to be probed

into by the panchayat authorities accordingly, in terms of Section 23 of the West Bengal Panchayat Act, 1973.

The writ petition is disposed of with a direction upon the appropriate authority of the Durgapur Gram Panchayat, to dispose of the complaint of the petitioners, if approached by the petitioners. On receipt of the same, the panchayat authorities shall act and proceed in terms of Section 23 of the West Bengal Panchayat Act, 1973. While disposing of the application of the petitioners, the authority shall cause an inspection of the premises in question upon notice to all the parties. A report shall be prepared and the same shall be handed over to the parties. A hearing shall be given to the parties and the entire proceeding shall be reached to its logical conclusion in accordance with law. The question of title and possession shall not be gone into by the panchayat authorities. The representatives of the club must be notified of the inspection as also the hearing to be given to the parties, 48 hours in advance.

The petitioners are given further liberty to approach the PWD authorities in accordance with law for consideration of their complaint with regard to encroachment on the public road which, prima facie, appears from the report filed by the State respondents.

Once such application is made, the authorities concerned shall dispose of the same within a period of four months from the date of receipt thereof.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)