

24.09.2021
Court No. 19
Item no.01
CP

WPA 15697 of 2021

Susil Ranjan Das & anr.
Vs.
The State of West Bengal & Ors.

Mr. Saibal Acharya
Mr. Imdadul Biswas
... for the Petitioners.

Mr. Jaharlal De
Mr. Shamim Ul Bari
.....for the State respondents.

Mr. Raghunath Chakrobarty
Ms. Amrita De
...for the Municipality.

This writ petition has been filed alleging forceful attempts for demolition of the shop rooms of the petitioners by the Mahestala Municipality without adhering to the procedure established by law. The shop rooms are situated at Budge Budge Trunk Road from Zinzira Bazar to Bata More.

It is the contention of the petitioners that the municipal authorities are forcefully evicting the petitioners in order to widen the road. Reference is made to certain communications from the municipality from which it appears that the petitioners were called for a hearing and were asked to submit their site plan duly prepared and certified

by a licensed surveyor demarcating the land of the petitioners from the Government land.

Mr. Chakraborty, learned advocate appearing on behalf of the municipality, submits that the shop rooms encroached a portion of the PWD road which has vested in the municipality and is being maintained by the municipality. That the municipality under the provisions of Section 184 of the West Bengal Municipal Act, 1993 has ample power to remove any obstruction from the said road even without notice. Accordingly, attempts have been made by the municipality to clear the area for widening of the road which is for the benefit of the general public. That the Government officials and authorities from the office of the Block Land and Land Reforms Officer have also participated in the meetings and the demarcation process, and as such, the allegations are completely false and frivolous.

The court is not entering into the merits of the claims of the petitioners but as the petitioners were directed to appear before the chairperson, board of administrators, Maheshtala Municipality with the site plan in order to ascertain the demarcation of the shop rooms, the petitioners must be informed of the decision taken by the municipality, before any steps are taken for removal of the alleged encroachments.

On September 28, 2021 at 12 noon, the competent authority of the municipality and the Amin from the concerned Block Land and Land Reforms Office shall be present at the spot with the land records and mouza map to measure and demarcate the area owned by the petitioners and the Government land, in presence of the petitioners. No further notice shall be given by the competent authority of the municipality. A joint inspection will be held.

Upon such inspection, the demarcation will be made. The petitioners will be entitled to produce their Title Deeds for the purpose of such demarcation. The municipality will also refer to their records and the municipal map.

The report of inspection shall be supplied to the parties. Thereafter the chairperson, board of administrators, Maheshtala Municipality shall hear the parties and pass the order. Upon what transpires at the inspection and at the hearing, a reasoned order shall be passed and the municipal authority shall be entitled to take all steps in accordance with law.

If it is found that the petitioners have encroached into the public road or government land which are under the control and administration of the municipality, then the portions which have

encroached into the public road will be demolished and costs for demolition shall be borne by the petitioners.

Entire exercise will be completed within a period of four weeks from the date of inspection. No steps shall be taken till the decision is taken by the authority in terms of this order.

This writ petition is, thus, disposed of. There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)