

24.02.2022
Sl. No.17
srm

W.P.A. No. 1406 of 2022

Dipak Bar & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Soumen Kumar Dutta,
Mr. Subhadeep Chatterjee,
Ms. Arpita Kundu

...for the Petitioners.

Mr. Jahar Lal De,
Mr. Benazir Ahmed

...for the State-respondents.

Despite service, none appears on behalf of the panchayat authorities. Affidavit of service is taken on record.

The petitioners have alleged that the authorities of the South Khanda Gram Panchayat, District-Purba Medinipur, have illegally constructed a road on a portion of the property owned and possessed by the petitioners situated on Plot Nos.17 and 19 in Mouza-Idalpur.

It is the contention of the petitioners that the panchayat authorities could not have encroached upon the lands of the petitioners for construction of a road without either purchasing the said lands from the petitioners or acquiring the same in accordance with law. It is submitted that the entire exercise was done by the Pradhan of the said gram panchayat, forcefully and the petitioners were

assaulted when the petitioners protested against such encroachment.

This Court is not in a position to decide this issue, but this Court is of the opinion that the lands of private citizens cannot be taken away, except in accordance with law. The panchayat authorities had the opportunity under Section 44 of the West Bengal Panchayat Act, 1973 to acquire the land. The panchayat authorities had the opportunity to ask the petitioners to sell the lands.

Under such circumstances, the writ petition is disposed of with a direction upon the petitioners to lodge a detailed complaint with the District Magistrate, Purba Medinipur, who shall dispose of the complaint of the petitioners in accordance with law upon hearing all the interested parties including the petitioners and the authorities of the gram panchayat. While disposing of the matter, measurements and demarcation will be made with the assistance of the concerned Block Land and Land Reforms Officer, Block Development Officer, panchayat authorities and also in the presence of the owners of the lands in question. Such demarcation shall be made to ascertain whether the contentions of the petitioners that a part of their land had been taken away for the project, is correct or not. If it is found that the lands have been

forcefully taken away without following the due process of law, a reasoned order shall be passed and communicated to all. The District Magistrate shall take steps to ensure that such encroachment is removed or the petitioners are adequately compensated as per law. If the demarcation and the proceedings before the District Magistrate do not reflect that the contentions of the petitioners are correct, in that event, reasons shall be disclosed, supporting such finding.

The entire exercise shall be completed within a period of three months from the date of receipt of the representation.

This Court has not gone into the merits of the claims and counterclaims of the parties and all points will be decided by the District Magistrate, Purba Medinipur.

This writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)