

04.05.2022
Sl. No.17
ss

W.P.A. 2553 of 2022

Smt. Swapna Chakraborty
Vs.
The State of West Bengal & ors.

Mr. Dipankar Saha
Mr. Subham Kr. Das
... for the petitioner

Mr. Raja Saha
Ms. Rupsha Chakraborty
... for the State

Mr. Debabrata Mondal
Ms. Sonali Das
Ms. Sreetama Neogi
... for the respondent no.9

The petitioner alleges that the construction of a metal road between plot Nos.260 and 261 of Mouza Mirdanga, J.L. No.4, Police Station Balagarh, District Hooghly, has been made over the petitioner's land.

The further allegation is that the respondent nos.6 to 9 have made certain unauthorised construction on the public road.

It is submitted that the public road has been constructed without taking consent either from the petitioner or from the other co-sharers.

The allegations are against Guptipara Gram Panchayat-I.

None appears on behalf of the Panchayat authorities despite direction of this Court.

Affidavit of service indicates that the Panchayat authorities have been served.

The Joint Block Development Officer, Balagarh, Hooghly has furnished a report upon holding an enquiry as per direction of this Court dated March 23, 2022. It appears that the Revenue Inspector and Amin (Surveyor) were delegated the job of making spot enquiry by the Block Land and Land Reforms Officer.

The enquiry reveals as follows :-

- a) A village road has been shown in the Mouza map, the course of which, has now deviated. The diverted road is admittedly within plot nos.260 and 261. Plot Nos.262 and 263 are not affected by the road.
- b) The diversion of the road was made as per local demand and it is alleged that the father of the petitioner and other co-sharers of the plots, had consented to such deviation;
- c) The petitioner and her siblings have become owner of the share of Late Ajoy Ganguly.
- d) That the predecessor of the petitioner had agreed to such change of such course of road.
- e) Out of 0.90 acres in Plot No. 260, the petitioner owns 0.19 acre, out of which 50% is in the possession of others, as permissive occupiers.
- f) There are eighteen co-sharers in Plot No.260 excluding the petitioner and fourteen co-sharers in plot no.261. No physical demarcation of land has

been made amongst the co-sharers. The petitioner occupies some portion in the southern part of both plot nos.260 and 261.

- g) Part of original place of 'path' (plot No.269) was also found to be partly occupied by the petitioner.

The Mouza map, the report prepared by the Block Land and Land Reforms Officer, Balagarh, Hooghly and records of right have been produced before this Court, which are taken on record.

Under such circumstances, this Court is not in a position to pass any order as the specific case of the state respondent is that the father of the petitioner had agreed to allow the Panchayat authorities to divert the road to the alleged plots. The petitioner is not the exclusive owner of the land and the other co-sharers have not objected to such construction of the road. Admittedly, there is no demarcation or partition of the plots between the co-sharers in respect of the plot nos.260 and 261. Under such circumstances, the petitioner is at liberty to consider the report filed by the Block Development Officer, Balagarh, Hooghly and the documents annexed thereto, copy of which will be supplied to the petitioner and thereafter the petitioner can file his response to the report and approach the Block Development Officer, Balagarh, Hooghly, in accordance with law. If such approach is made, the matter shall be looked into and shall be decided by the concerned Block Development Officer upon giving an opportunity of

hearing to the petitioner and other co-sharers as also the Panchayat authorities.

A reasoned order shall be passed and communicated to all within a period of eight weeks from the date of receipt of the application of the petitioner.

With the above observations, this writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)