

S.I. no. 8
22.2.2022
Court. No. 19
sn

WPA 2963 of 2022

Asit Krishna Saha & Ors.
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Dilip Kumar Sinha

... for the Petitioners

Mr. Samrat Sen

Ms. Manali Ali

... for the State.

Despite service, none appears on behalf of the Panchayat Authorities.

The petitioners claim to be the owners of plot nos.2279 and 1824 under Mouza Paikpari, J.L. No. 286, Police Station Kolaghat, District Purba Medinipur. The said plots fall within Kola-II Gram Panchayat.

The allegations are that all of a sudden, some officials from the office of the gram panchayat started measuring the lands of the petitioners without obtaining consent from the petitioners. On an enquiry, the petitioners came to know that for the purpose of construction/improvement of a village road extending from Jasar Road to NiluDas's house, such measurements were being taken. The petitioners further allege that a tender was floated for the said work and the work order has been issued. The work

order dated December 22, 2021 is also annexed to the writ petition.

It is settled law that the authorities cannot take away the land of a private person, except by following the due process of law. The land should have been either acquired or purchased. The petitioners apprehending that a portion of the land of the petitioners may be taken away during the construction/improvement of the said road, has filed this writ petition.

The petitioners approached the police authorities, panchayat authorities and also the administrative authorities of the said block, but the authorities did not pay any heed to the complaint of the petitioners.

In the decision of a Division Bench of this Court in the matter of Swapan Kumar Sahoo & Ors. Vs. Sri Probodh Kumar Pramanik & Ors., passed in MAT 1163 of 2021, it was held that public authorities cannot take away the private lands except according to due process of law.

This Court also holds that the Panchayat authorities of Kola-II Gram Panchayat cannot take away the land of the petitioners except in accordance with law.

For the purpose of ascertaining as to whether there has been any encroachment into the land of the petitioners, a demarcation is required to be made. Thus the court directs that a demarcation be made by way of a joint inspection.

The concerned Block Land & Land Reforms Officer, the Block Development Officer, the authorities of the Kola-II Gram Panchayat and the petitioners shall be present during the joint inspection with all documents. The Amin of the Block Land & Land Reforms Office shall take measurements by the method of relay. The Mouza map, records of the land revenue office and documents of the petitioners shall be compared during such measurement.

If it is found that the allegations of the petitioners are correct, then the road should be constructed in a way that the land of the petitioners are not taken away, or else, the authorities must either purchase the lands or acquire the same.

However, if it is found that the contentions of the petitioners are not correct then the authorities may proceed with such construction. A report of such inspection shall be prepared and supplied to the petitioners.

Till the completion of the above exercise, the construction/improvement of the road shall not be made over the lands of the petitioners.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)