

S/8
3.11.2022
Court. No. 19
sn

W.P.A.15692 of 2021

Biswajit Kundu
VS
The State of West Bengal & Ors.

Mr. Kartick Kumar Bhattacharyya
Mr. T.P. Acharya
Ms. Soumashree Dutta

... for the Petitioner

Mr. Susovan Sengupta
Mr. Manas Kr. Sadhu

..for the State

Mr. Chittapriya Ghosh
Ms. Priyanka Saha

..for the private respondent

The petitioner alleges that the Sub Divisional Officer, Suri, Sadar failed and neglected to take steps to remove the encroachment from the public road despite a report of the Block Land & Land Reforms Officer, Suri, Birbhum. According to the report of the concerned Block Land & Land Reforms Officer, the respondent no.7 did not have any valid document for construction on the alleged plot no.791/825 of mouza Bragergram, District Birbhum. The land, according to the report belongs to the Collector, Birbhum and has been classified as a 'Rasta'. The encroachment by the respondent no.7 was found to be illegal and on a public property.

It appears that in a proceeding initiated by the appropriate authority, the alleged patta granted to the predecessor of the respondent no.7 had been cancelled

in 2005. The respondent no.7 alleges that even after annulment of the patta in 2005, he was given permissive possession. Another proceeding bearing no. 10 of 2019 was initiated and the patta was cancelled. The respondent no.7 admittedly, has not been able to show any document before the Court with regard to his claim for permissive possession.

The report of the Block Land & Land Reforms Officer is clear the alleged patta was cancelled some time in 2005 and in the Misc. Proceeding no. 10 of 2019, the respondent no.7 could not produce any document in his favour. After cancellation of the patta in 2005, the report indicates that plot no. 791/825 was classified as Rasta from Bastu and transferred to khatian no.1. Thus, as per the report, it appears that the respondent no.7 could not have constructed on the said road. However, the competent authorities are to take a final decision in this regard on the basis of the report of the Block Land & Land Reforms Officer either under the provisions of West Bengal Public Land (Eviction of Unauthorized Occupants) Act, 1962 or any other applicable law. It appears that on the self same cause of action the petitioner has approached the civil court and certain orders had been passed by the civil court.

The Sub Divisional Officer arrived at a conclusion that until the suit is disposed of by the civil

court, no steps could be taken by the authority on the basis of the report of the Block Land & Land Reforms Officer. Such decision was taken by the said authority probably to avoid conflicting orders. Although, the schedule of the plaint in Title Suit No. 54 of 2011 mentions only plot no. 791. The pleadings clearly indicate that the petitioner has challenged the construction of the respondent no.7 on bata plot no. 791/825. Parallel proceedings cannot be permitted

Under such circumstances, if the petitioner withdraws the suit and approaches the competent authority under the relevant law for necessary steps and removal of encroachment from public road, the authority shall act on the basis of the preliminary report filed by the concerned Block Land & Land Reforms Officer and conclude the proceedings as per law. The proceeding to be initiated shall be concluded within a period of six months from the date of withdrawal of the suit and supply of such intimation to the authority concerned.

The respondent no.7 shall also get adequate opportunity to make his submissions and produce valid documents if any, at the appropriate proceeding to be thus initiated. A reasoned order shall be passed and communicated to all. The proceedings to be initiated shall be reached to its logical conclusion.

The observations made hereinabove are restricted to the issue of inaction of the authorities in taking steps on the basis of the report of the Block Land & Land Reforms Officer.

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 server copy of this order.

(Shampa Sarkar, J.)