

S/L 51
14.09.2022
Court. No. 19
GB

W.P.A. 15847 of 2021

Amal Kumar Ghorai & Ors.
VS
The State of West Bengal & Ors.

*Mr. Partha Pratim Roy,
Mr. Soumyajit Das Mahapatra,
Ms. Oindrila Ghosh.*

...for the Petitioners.

*Mr. Santanu Kr. Mitra,
Mr. Subhabrata Das.*

...for the State.

Affidavit-of-service filed in Court today, be kept with the record.

The petitioners allege that the panchayat authorities of Debra-II Gram Panchayat have encroached into the land of the petitioners and some other local villagers, by proposing to construct a road under the MGNREGA. The petitioners have alleged that the said road is a 11ft. *moram path*. Without any acquisition or payment of compensation to the owners of the alleged baram path, the concrete road cannot be constructed.

Mr. Mitra, learned advocate appearing on behalf of the State respondents denies the claim of the petitioners. Mr. Mitra points out to the representation made by the petitioners, wherein the petitioners had stated that the only difficulty in the construction of the road would be with the drainage. The petitioners prayed before the authority concerned to first construct a proper sewerage and then proceed with the construction of the road.

This Court finds that the contention of Mr. Mitra is correct. However, as the petitioners have pleaded in paragraph-14 of the writ petition that the petitioners and some other villagers are owners of the *moram path* and have been enjoying the same since long, on the basis of their respective sale deeds, disputed questions of facts have arisen. Such dispute cannot be decided either by a writ Court or by the panchayat authorities.

Under such circumstances, the petitioners are directed to approach the District Magistrate, Paschim Medinipur with their grievances. If such representation is filed, the same shall be disposed of in accordance with law. The petitioners and any other persons, who claim to be the owners of the alleged land over which the road is proposed to be constructed, shall be heard. Before such hearing, an inspection shall be made with the help of the Block Land and Land Reforms Officer, Debra. The 'Amin' of the said office shall be appointed for taking measurements and to make a demarcation of the land in question, being plot no.606 of Mouza-Haipat. The inspection shall be made in the presence of all the parties. A report of the inspection shall be given to the parties. Thereafter, a hearing shall be held and a reasoned order shall be passed and communicated to all concerned.

If it is found upon holding an inspection, and after taking the measurements that the contentions of the petitioners are correct, in that case, steps shall be taken in terms of Section 44 of the West Bengal Panchayat Act, 1973.

If the petitioners' allegations are found to be incorrect upon such demarcation and the petitioners are not found to be owners of the alleged plot over which the road is proposed to be constructed, the reasons shall be disclosed in the order.

The entire exercise shall be completed within a period of 10 weeks from date of communication of this order.

This Court has not gone into the merits of the claims and counter-claims of the parties.

As no affidavits have been called for, the allegations are deemed to be denied.

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 basis of the server copy of this order.

(Shampa Sarkar, J.)