

Sl. No.7
25.07.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 15307 of 2022

Sri Hemanta Kumar Sarkar
versus
Union of India & Ors.

Mr. Swarup Banerjee
Mr. Sajal Kumar Ghosh
... for the Petitioner.
Mr. Sayak Ranjan Ganguly
... for the Union of India
Mr. Jahar Lal De
Mr. Shamim Ul Bari
... for the State

The allegation of the petitioner is that the Panchayat was constructing a road after demolishing a portion of his property.

In the earlier writ petition filed by the petitioner being WPA 8525 of 2021, the Court by order dated 3rd December, 2021 directed the Pradhan, Chandpara Gram Panchayat to consider the representation filed by the petitioner and pass a reasoned order thereon. A reasoned order has duly been passed by the Pradhan, Chandpara Gram Panchayat on 21st April, 2022.

The petitioner is aggrieved by the same and the order passed by the Pradhan is impugned in the present writ petition.

The impugned order mentions that as per report filed by the Block Land and Land Reforms Officer, there

is a 'Path' in L.R Plot No.781 of Mouza-Shimuliapara, J.L. No.55 and the Path does not encroach the land of the petitioner who happens to be the Raiyat of L.R Plot No.780 of the said mouza. The PMGSY road passes through plot No.781 which is outside the recorded land of the petitioner. The claim of the petitioner that the road was being constructed over Plot No.780 could not be substantiated.

According to the petitioner, the said order was not a reasoned order. No opportunity of hearing was given to the petitioner prior to passing the impugned order.

The order sheets of the order dated 26th March, 2022, 2nd April, 2022 and 22nd April, 2022 are annexed to the writ petition.

It appears therefrom that the date of hearing was fixed on 2nd April, 2022 by giving prior notice to the petitioner. The petitioner was duly heard on 2nd April, 2022 and an order has been passed by the Prodhan on 22nd April, 2022 by clearly mentioning that the road in question has been constructed outside the land of the petitioner. The said order was passed relying upon the report filed by the Block Land and Land Reforms Officer.

It does not appear from the impugned order that the petitioner was not heard prior to passing the said order. The order appears to be a reasoned one.

Dispute with regard to encroachment of the petitioner's land cannot be effectively decided by the Pradhan and the Pradhan has rightly relied upon the field enquiry report of the Block Land and Land Reforms Officer to come to a decision that the road was constructed outside the petitioner's land.

The petitioner submits that the field enquiry report of the Block Land and Land Reforms Officer has not been supplied to him. It will be open for the petitioner to apply for obtaining the field enquiry report from the Pradhan. In the event such an application is made for supplying field enquiry report, then the same shall be acted upon by the Pradhan.

If the petitioner is aggrieved by the same, it will be open for the petitioner to approach the appropriate civil forum for settling the dispute with regard to the plot over which the road has allegedly been constructed by the Panchayat.

No interference is called for with the order passed by the Pradhan.

The writ petition fails and is hereby dismissed.

Affidavit of service filed in Court is taken on record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)