

S/L 18
23.03.2022
Court. No. 19
GB

W.P.A. 16389 of 2021

Piyali Das & Anr.
VS
The State of West Bengal & Ors.

*Mr. Eyaz Khan,
Mr. Pradip Kr. Dey,
Mr. Debnath Mahato.*

...for the Petitioner.

*Mr. Pradip Kumar Ray,
Mr. Simanta Kabir.*

...for the State.

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

Despite service, none appears on behalf of the panchayat authorities.

The petitioner no.1 is the owner of a premises situated at L.R. Dag No.17349 corresponding to L.R. Khatian No.60934 under Mouza-Bally, Police Station – Nischinda, District – Howrah. The said property is situated within Sapuipara Basukati Gram Panchayat. The petitioner no.2 was the original owner of the said property. By virtue of a deed of gift, the petitioner no.1 has now become the owner of the property in question.

It is submitted that the petitioner no.2 had permitted the panchayat authority to construct a pump room in the northeastern portion of the land in question. The further allegation is that, thereafter, the panchayat authorities have constructed an additional pump room without any permission from the owners and without following the due process of law. The petitioners made several complaints before the Pradhan

of the concerned gram panchayat, but the Pradhan has remained silent. Hence, this writ petition has been filed for a direction upon the Pradhan to either vacate or remove the additional construction or to acquire the same by payment of adequate compensation.

Under such circumstances, the writ petition is disposed of with a liberty to the petitioners to approach the District Magistrate, Howrah with their grievances. The law as prescribed under Section 44 of the West Bengal Panchayat Act, 1973 is clear. It states that where a gram panchayat requires land for carrying out any activities as per the provisions of the Act, it may either negotiate with the person or persons having interest in the said land and if it fails to reach an agreement, it may make an application to the Collector for acquisition of the land, who may, if satisfied that the land would be required for a public purpose, take steps to acquire the land.

If such application is made, the same shall be disposed of by the District Magistrate in accordance with law upon hearing the petitioners and/or their representative and also the panchayat authorities. A reasoned order shall be passed and communicated to the parties. On the basis of the findings of the District Magistrate, steps shall be taken by the authorities, in accordance with law. It is made clear that the District Magistrate's office shall conduct an inspection of the premises in question, in the presence of the parties, before proceeding with the hearing of the matter. A report shall be prepared and supplied to the parties. The parties shall be at

liberty to deal with the report. Thereafter the matter shall be heard and disposed of.

It is made clear that this Court has not gone into the merits of the claims of the petitioners and the entire issue shall be resolved by the District Magistrate in accordance with the provisions of law.

The entire exercise shall be completed within a period of three months from the date of receipt of the representation 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 basis of the learned advocates' communication.

(Shampa Sarkar, J.)