

19.9.2022
Sl.No.27
sn

WPA 18594 of 2021

Sabibur Pailan & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Subrata Karkamakar

..for the petitioners

Ms. Siprz Mazumder

Ms. Prativa Ghatak ..for the State

Mr. Gobinda Chandra Baidya

Mr. Gobinda Baidya ..for the respdts.5&6

The petitioners allege that the respondent nos.5&6 have encroached government land and have started certain constructions. Such land of the government, comprise of dag nos. 797 and 796, Mouza Basanti under Basanti Police Station. The petitioners allege that they are residing near the said land and pray for removal of the encroachment from the government land.

A report is filed by the police. The police report indicates that dag nos. 797 and 796 are government lands. The lands have been used for a village market (haat). There are many shops on the land. The police report reveals that the petitioners also have shops on the land in question. The land was allegedly in possession of Mihir Debnath. Sahidul Molla had taken possession of the land and had started a 'pucca' construction. Then disputes arose. Several proceedings under Section 144(2) of the Code of Criminal Procedure had been registered and the

orders were passed. It appears that a civil suit is also pending. Criminal investigation was started vide Basanti Police Station Case No. 516 of 2022 which ended with the filing of a charge sheet.

Under such circumstances, it prima facie appears that the dispute is over construction on a land which had been used as a 'haat' by the villages. Both parties have their individual shops on the said land. This dispute cannot be resolved by the panchayat authorities. Both civil and criminal proceedings are also pending.

This Court had not gone into the merits of the allegations made by the respective parties.

The petitioners are at liberty to approach the concerned District Magistrate with their grievances. Upon consideration of the grievances, a hearing shall be given to the petitioners and the respondent nos. 5&6 and all necessary and interested parties. Necessary orders shall be passed and necessary steps shall be taken, in accordance with law. The decision of the authorities shall be communicated to the petitioners and the respondent nos. 5&6.

The issue with regard to the right, title, interest and encroachment etc. has not been gone into. Whether the government shall allow the land to be used by the local villagers or construction of shops shall be allowed thereon, in accordance with

law, are exclusively within the domain of the government.

The entire exercise shall be completed within a period of three months from the date of communication of this order.

This writ petition is disposed of.

There will be, however, no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)