

11.2.2022
Ct. No.19
Sl.no.10
sn

W.P.A. No. 20514 of 2021

Mst. Jyotsnatara Begum

Vs.

State of West Bengal & Ors.

Mr. Sanjib Seth

....for the petitioner

None appears on behalf of the respondents. Affidavit of service is taken on record.

The petitioner has alleged overt act on the part of the panchayat authorities. The petitioner submits that Title Suit No. 282 of 2017, filed by the petitioner was decreed by the learned Civil Judge, Senior Division, 3rd Court, Howrah declaring 50% share of the petitioner in respect of the L.R.Dag nos. 107, 108, 109 of Mouza Sekrahati.

It is now contended by the petitioner that officials of the Jagatballavpur Gram Panchayat have been trying to forcefully enter into the land of the petitioner to construct a drain, public toilets and shop rooms.

It is a settled law that no person can be deprived of the rightful enjoyment of his private property, except in accordance with law. The allegations against the panchayat authorities are of forceful entry into the land of the petitioner and attempts to construct some drains and structures, without resorting to the procedure established by law.

This Court is of the opinion that the petitioner must be given an opportunity to approach the District Magistrate, Howrah, with her grievances. If such complaint is made before the said authority, the same shall be disposed of upon hearing the petitioner and or her authorised representative as also the panchayat authorities. An inspection shall be made. The authority shall ensure that the land of the petitioner is not taken away forcefully. The panchayat authorities can only proceed under the law and by following the due process of law. If, upon enquiry, it appears that the dispute is between the petitioner and some other private persons, a reasoned order shall be passed and communicated to the petitioner. In that case, the petitioner shall be at liberty to avail of her remedy before the appropriate forum.

This Court has not gone into the merits of claim of the petitioner and the entire issue shall be decided on the observations hereinabove. The District Magistrate shall also impose such condition and restriction that may be necessary if the panchayat authorities are found to be at fault. However, as an interim measure, till disposal of the issues involved in this case and in order to protect the property of the petitioner, interim measures may be taken by the authority. The entire exercise will be completed within 2 months from receipt of the application of the petitioner.

This writ petition is disposed of.

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

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

(Shampa Sarkar, J.)