

S/L 44
20.09.2022
Court. No. 19
sn

W.P.A. 20887 of 2021

Dilip Kumar Samanta
Vs.
The State of West Bengal & Ors.

Mr. Durga Prasad Dutta
Mr. Ashis Kumar Paul
Mr. Anindya Sundar Das
Mr. Sumanta Ganguly ..for the petitioner

Mr. Supratim Dhar ..for the State

The petitioner alleges that the Pradhan of Gobindapur Gram Panchayat had been trying to construct an “Eco Park” over a pond and along the bank on the pond i.e. on dag no.2248 of mouza Hatgobindapur.

The petitioner claims to be one of the co-sharers in respect of the said plot. The specific contention of the petitioner is that without following the provisions of Section 44 of the West Bengal Panchayat Act,1973, the authorities could not have used the said plot.

It is submitted that, when the petitioner raised an objection, the project was kept on hold. However, the correctness of the allegations made by the petitioner cannot be decided in this proceeding.

Mr. Dhar, learned advocate for the State respondents relies on a ‘No Objection’, allegedly issued by the co-sharers, and submits that all the co-sharers had given their consent for such construction and Section 44 of the West Bengal Panchayat Act, 1973 clearly provides that private lands can be utilized upon negotiation with the owners. According to

Mr.Dhar, with such permission and consent of the co-sharers, the project was sought to be implemented.

Such submission of Mr. Dhar is refuted by the learned advocate for the petitioner and it is submitted that the petitioner did not sign on the 'No Objection'.

The petitioner has already approached the District Magistrate, Purba Bardhaman, by filing a composite representation. The same shall be disposed of in accordance with law, upon granting an opportunity of hearing to the petitioner, the other co-sharers, the gram panchayat authorities and the concerned Block Development Officer. While disposing of the representation, the proportionate share of the petitioner may be demarcated or determined, to ascertain the correctness of the allegation.

Proportionate share of the petitioner shall be taken into consideration on the basis of the petitioner's title deeds and other documents and upon hearing all the parties. If the petitioner is not willing to hand over his proportionate share for the said project, the petitioner will be adequately compensated as per Section 44 of the West Bengal Panchayat Act, 1973. A reasoned order shall be communicated to all. If any construction is made in the meantime, the same shall be subject to the decision of the concerned authority.

The issue is as to whether the petitioner had signed the 'no objection' or not, shall also be decided in the proceeding. A reasoned order shall be passed and communicated to all.

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.)