

07.11.2022
Sl. No.7(DL)
srm

W.P.A. No. 20263 of 2022

Biswajit Samanta

Vs.

State of West Bengal & ors.

Mr. Shaunak Ghosh,
Mr. Sourav Mondal

....for the Petitioner.

Sk. Md. Galib,
Mr. Anebrata Samanta

...for the State-respondents.

Mr. Suman Basu

...for the Respondent No.5.

Despite service, none appears on behalf of the respondent Nos.8 to 13. Affidavit-of-service is taken on record. As this court is not inclined to pass any mandatory directions, the writ petition is taken up in their absence.

The petitioner alleges that the respondent Nos.8 to 13 have encroached on a government land. The said public road is allegedly maintained by the Hooghly Zilla Parishad. According to the petitioner, such encroachment on a government land and in front of the premises of the petitioner has obstructed the ingress and egress of the petitioner to his own house.

However, there are no documents in support of such submissions.

The learned advocate for the respondent No.5/Hooghly Zilla Parishad submits that he does not have any instruction as to whether the said road falls within the jurisdiction of the zilla parishad or not. He further submits that no permission for construction of the alleged shop room was given by the zilla parishad to the respondent Nos.8 to 13.

The police authorities have filed a report. The same is taken on record. The police report indicates that when the petitioner objected to such construction there was an altercation between the parties. The petitioner was allegedly assaulted and Tarakeswar Police Station Case No.167 of 2022 dated July 22, 2022 was registered. After completion of the investigation, charge sheet being Charge Sheet No.146 of 2022 dated July 31, 2022 was filed.

As the pleadings are insufficient and the petitioner is not quite sure as to which authority would be empowered to remove the alleged encroachment from the public land, and is also unaware of the relevant law that would be applicable, no mandatory direction can be passed.

The writ petition is disposed of with liberty to the petitioner to approach the Sub-Divisional Officer, Chandannagar, Hooghly with better particulars in support of his contentions. If such representation is filed, the same shall be considered and disposed of in accordance with law within a period of eight weeks from the date of receipt thereof, upon giving an opportunity of hearing to all concerned.

If it is found that there is an encroachment on public land, then the relevant law shall be made applicable. The Sub-Divisional Officer shall come to the conclusion as to whether the allegation of the petitioner is *prima facie* correct or not. If it is found that there is an encroachment on public land, in that event, the matter shall be referred to the concerned authority under the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962 for initiation of necessary proceedings. If it is found that some other authority is in-charge of the said road/land and some other law would be applicable, then the matter shall be referred to the appropriate authority under the applicable law as per conclusion of the Sub-Divisional Officer. Such decision of the Sub-Divisional Officer shall be communicated to all the parties.

Thereafter, the competent authority under the applicable law, shall conclude the proceedings in accordance with the provisions of the applicable statute.

This Court has not entered into the claims and counter-claims of the parties. The entire issue is left open to be decided by the appropriate authority.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

The petitioner is directed to serve a copy of the writ petition along with a server copy of this order upon the Sub-Development Officer, Chandannagar, Hooghly. A server copy of this order shall also be served upon the respondent Nos.8 to 13.

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

(Shampa Sarkar, J.)