

31.10.2022
Court No. 19
Item No.54
sn

WPA 21464 of 2021

Mrinal Kanti Manna

Vs.

The State of West Bengal & Ors.

Mr. N.K. Manna

Mr. K.K. Manna

.....for the petitioner

Mr. Shah Jamal Hazra

..for the respondent nos.13-16

Mr. Himadri Sekhar Charkraborty

Mr. Tapan Ray

..for the State

Let the affidavit of service be taken on record.

The petitioner had raised objection with regard to the decision of Kheput Dakshinbar Gram Panchayat to construct a road allegedly over a portion of the land belonging to the petitioner situated at R.S. plot nos.812 and 816 of mouza Alipur. The petitioner claims that the respondent no.7, who is a member of the gram panchayat had approached the petitioner with such proposal. According to the petitioner, without either purchasing the land or without acquiring the same and without payment of adequate compensation, the panchayat authorities could not construct a public road on the petitioner's private land.

The respondent nos. 13 to 16 deny such allegations and submit that the petitioner is not the owner of the land in question. That there is a dispute

with regard to the title of the petitioner. That there is an existing path way which was used by the villagers since long.

The Writ Court cannot decide the question of title and possession. Whether there had been an existing path way over the land which has been used either by the villagers or by the private respondents are factual issues. Whether the panchayat authorities are proposing to construct a road over the land allegedly belonging to the petitioner is also a matter to be decided upon inspection.

Under such circumstances, this writ petition is disposed of with a direction upon the Sub Divisional Officer, Ghatal, to treat the writ petition as a representation of the petitioner and dispose of the same in accordance with law, upon hearing all the parties.

Before such decision is taken, a joint inspection shall be made in order to ascertain whether any proposed concrete road is likely to cross over the land of the petitioner. The parties, panchayat authorities and the concerned Block Land and Land Reforms officer shall be present at the inspection. The records in the office of the Block Land & Land Reforms concerned shall be consulted in order to ascertain the title and possession of the land. The mouza map shall be consulted. If there is

any dispute with regard to the title and or possession or with regard to the boundaries, the report to that effect shall be prepared. The petitioner will be at liberty to take appropriate steps before the civil court.

If it is found that the alleged construction is proposed to be over the land of the petitioner, in that event, the petitioner shall be adequately compensated in accordance with law.

It is settled law that a person cannot be deprived of his private property except in accordance with law and the Panchayat Act provides that if the party does not give consent for any alleged construction, then the authorities must either compensate by acquiring the land or purchase the land.

However, if there are disputes with regard to the right, title and possession and the records speak otherwise, in that event, the petitioner does not have any option but to get his title adjudicated by the civil court.

In either case, a reasoned order shall be passed and communicated to all.

This court has not gone into the merits of the claims and counter claims and the issues involved, shall be decided independently.

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

Accordingly, the writ petition is disposed of.

There will be however no order as to costs.

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

(Shampa Sarkar, J.)