

07.11.2022
Court No. 19
Item no.37
CP

WPA No. 22929 of 2022

Rajia Bibi & anr.
Vs.
The State of West Bengal & Ors.

Mr. Sabyasachi Hazra

... for the petitioners.

Mr. Prantick Ghosh
Mr. S. Sarkar
Mr. Prasad Bhattacharya

....for the private respondents.

There appears to be misjoinder of causes of action in the writ petition.

The first allegation is that the panchayat authorities of Paschim Bishnupur Gram Panchayat started constructing a road over the plot of land belonging to the petitioners, i.e., on plot no. 88 pertaining to Mouza – Khariberia, Khatian No. 102. It appears that on the basis of such allegations which were raised by the petitioners, the Joint Secretary to the Government of West Bengal had issued a notice upon the District Magistrate, South 24 Parganas directing the District Magistrate to look into the matter and take necessary action as per law.

It is a settled principle that no one can be deprived of his private property, except in accordance with law. Section 44 of the West Bengal Panchayat Act, 1973 also provides that except with the consent

of the private party or without compensating the private party, the land of a private party cannot be utilized for any developmental work even by the panchayat authorities.

Thus, the first issue raised by the petitioners is disposed of with a direction upon the District Magistrate, South 24 Parganas to take necessary action as directed by the Joint Secretary to the Government of West Bengal, Department of Panchayats & Rural Development in terms of the Memo dated November 22, 2021, within a period of eight weeks from the date of communication of this order. The decision to that effect shall be taken upon causing an inspection in the presence of the parties involved, including the pradhan of the concerned gram panchayat. Necessary action thereafter shall be taken on the advice and direction of the Joint Secretary to the Government of West Bengal. Such action shall be concluded within a period of six weeks thereafter.

With regard to the allegation of unauthorized construction made against the respondent nos. 10 to 14, it appears that the sanction was granted to the said respondents by the concerned gram panchayat. Thus the allegation of construction without sanction does not survive.

It is made clear that the said construction shall be strictly in accordance with the plan. The petitioner has not challenged the approval of the plan and as such, nothing further remains to be decided in the writ petition. The orders passed herein shall not have any bearing on the partition suit which is pending.

Needless to mention the disputes between the petitioners and the respondent nos. 10 to 14 and the construction made by the respondent nos. 10 to 14 will be subject to the final decision in the partition suit.

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 server copy of this order.

(Shampa Sarkar, J.)