

24.01.2023
Sl. No.6(DL)
srm

W.P.A. No. 220 of 2023
Sri Saikat Kumar Mitra & Ors.
Versus
Pradhan, Joychandipur-Patharberia
Gram Panchayat & Ors.

Mr. B.P. Mondal,
Mr. Sukanta Mondal
....for the Petitioners.

Mr. Ansar Mandal,
Ms. Sreelekha Bhattacharjee
...for the State-respondents.

Affidavit-of-service is taken on record.

The petitioners allege that the authorities of Joychandipur-Patharberia Gram Panchayat, District-South 24-Parganas and Bishnuur-II Panchayat Samity, District-South 24-Parganas under the aid and advice of the Executive Engineer, South 24-Parganas Water Supply Division-I and the Assistant Engineer, Bishnupur-II Block Water Supply (PHE), Kriparampur Water Tank, South 24-Parganas had visited Plot No.978 of mouza Joychandipur for a survey. The petitioners contend that the purpose of the survey was to check the viability and feasibility for construction of a water reservoir. According to the petitioners, 1.34 acres of the said plot was retained by their

predecessors. That the authorities wrongly treated the land as vested land.

Undoubtedly, the authorities can either acquire or purchase private lands for public use. The authorities can also negotiate with the owners for donation of the land. In this case, the persons who claim to be the owners of the concerned area on which the reservoir has been proposed submit that they have not given any permission to the authorities to use the land.

This Court finds that the writ petition is based on apprehension. The issue as to whether the water reservoir is proposed to be constructed on the land belonging to the petitioners or on vested land cannot be decided by this Court, at this stage. Mandatory directions cannot be passed upon the authorities, restraining them in any manner. There are factual disputes.

Mr. Mandal, learned Additional Government Pleader submits a report prepared by the Executive Engineer, South 24-Parganas Water Supply Division-I. The report is taken on record.

It appears from the records that a proceeding before the West Bengal Land Reforms and Tenancy Tribunal is already pending with regard to the said land. The authorities have treated the land to be vested. As such,

proceedings have been initiated before the learned tribunal.

The petitioners are at liberty to approach the learned tribunal for necessary protective orders in accordance with law. This Court cannot pass any direction upon the authorities in view of the fact that right, title, interest of the petitioners in respect of the said land has not yet been decided and proceedings are also pending. However, the authorities shall act and proceed in accordance with law

The writ petition is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)