

Item No.265(ml)

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

03.02.2023
Ct-24

WPA 726 of 2022
Pinaki Das & Ors.

v.

The State of West Bengal & Ors.

Mr. Atanu Basu
... for the petitioners.

Mr. Raja Saha
Ms. Rupsha Chakraborty
... for the State.

Mr. Sujoy Bandyopadhyay
Mr. Shambhu Mahato
... for the Municipality.

The grievance of the petitioners is that the Municipality is utilizing the private land of the petitioners for construction of public road.

The petitioners refer to a decree passed in favour of their predecessor-in-interest where the learned Court below decreed the plaintiffs' right, title and interest of the suit land and permanently restrained the defendants from disturbing the possession of the plaintiffs therein.

The petitioners submit that the right of the petitioners has already been declared by the learned Civil Court and accordingly the Municipality does not have any authority to construct road over their private land.

The petitioners submit that the record-of-rights in respect of the subject land is incorrect. The record-of-

rights mentions that the land is classified as 'Path' for use of the general public.

According to the petitioners, representation was made before the DL & LRO for correction of the record-off-rights but no steps have been taken in response to the same.

Learned advocate representing the Municipality produces a report before this Court wherefrom it appears that relying on the entry in the records maintained by the land authority, the land in question has been treated as a public road.

It appears from the submissions made on behalf of the parties that the record-of-rights in respect of the land in question mentions that the same is meant for use of the general public. The petitioners claim that the entry in the record-of-rights is incorrect. The petitioners ought to have taken steps for correction of record-of-rights on the basis of the decree passed in favour of their predecessor-in-interest respect of the land in question.

At this stage, it will not be proper to stall the action of the Municipality as there is no apparent error on their part. The Municipality acted in accordance with the entries made in the documents relating to title of the property.

In view of the above, no relief can be granted to the petitioners in the instant case.

The writ petition fails and is hereby dismissed.

Dismissal of the writ petition will, however, not stand in the way of the petitioners to approach the

appropriate forum for redressal of their grievances, if so advised.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)