

30.01.2023
Sl. No.22(DL)
srm

W.P.A. No. 1014 of 2023

Sri Bijan Bhuiya & Ors.

Versus

The State of West Bengal & Ors.

Mr. Satyajit Mondal,
Mr. Amit Bikram Mahata

....for the Petitioners.

Mr. Himadri Sikher Chakraborty,
Ms. Debdooti Dutta

...for the State-respondents.

Affidavit-of-service is taken on record.

The petitioners allege that the Pradhan of Ramgopalpur Gram Panchayat, District-South 24-Parganas along with his men and agents had forcefully entered into the land of the petitioners situated at Plot No.464/3436 pertaining to LR Khatian Nos.262, 263, 364 and 265 of mouza Harendranagar and were constructing a pathway and a park over the said land.

Undoubtedly, the authorities can acquire private lands. Section 44 of the West Bengal Panchayat Act, 1973 provides that if the owners of the private lands are not inclined to either donate such land to the panchayat authority or permit construction by the authority for public purpose, the land has to be acquired. The petitioners allege

that no such proceeding had been initiated. No steps had been taken to purchase the private lands of the petitioners. The petitioners had never granted any permission for such construction.

Under such circumstances, the writ petition is disposed of with a direction upon the Block Development Officer, Kakdwip Development Block, South 24-Parganas to treat the writ petition as a representation of the petitioners and pass a reasoned order in accordance with law, upon hearing all the parties including the Pradhan of the concerned gram panchayat. The authority shall cause an inspection in the presence of the parties and also in the presence of the Block Land and Land Reforms Officer, Kakdwip, South 24-Parganas for demarcation of the private land and the land on which the alleged construction of the pathway and the park is being made.

If it is found on the basis of the measurement, title deeds of the petitioners and the land records as also the mouza map, etc. that the land over which such construction is being made is the exclusive land of the petitioners, the panchayat authorities shall take recourse to Section 44 of the West Bengal Panchayat Act, 1973. In case it is found on demarcation, that the allegations of the petitioners are not correct and the land does not belong to

the petitioners, necessary orders shall be passed. The result of the hearing in either case, shall be intimated to all the parties.

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

Construction in the meantime, shall abide by the final decision of the authority.

The Court has not gone into the merits of the claim of the petitioners and the issues raised shall be decided by the competent authority, independently.

A copy of the writ petition along with a server copy of this order be served upon the Block Development Officer, Kadwip Development Block, South 24-Parganas.

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.)