

Item No. 3
08.02.2023
Court. No. 19
GB

W.P.A. 194 of 2019

Arati Das & Anr.
VS
The State of West Bengal & Ors.

Mr. Pankaj Halder,
Mr. Tapas Manna

...for the Petitioners.

Mr. Swapan Dutta,
Mr. K.M. Hossain

...for the State.

Affidavits-of-service filed in Court today, be kept with the record.

Despite service none appears on behalf of the panchayat authorities.

The Block Development Officer, Mandir Bazar Block shall treat the writ petition as a representation of the petitioners and dispose of the same in accordance with law.

The allegation of the petitioners is that the Dhanurhat gram panchayat had encroached into a portion of the land of the petitioners being Plot No.618 of Mouza-Mallickpur for construction of a concrete road. According to the petitioners, the authority did not obtain consent.

It appears that the Executive Assistant, Dhanurhat gram panchayat had informed the petitioners that such road was being constructed for the benefit of the villagers and most of the villagers had consented to such construction. A meeting was also held so that some negotiation could take place. The petitioners were not present at the meeting.

According to the petitioners, Section 44 of the West Bengal Panchayat Act, 1973 should have been complied with by the panchayat authorities before constructing the road over a portion of the petitioners' land.

The owner of the plot can always consent to construction of any road over his land. If such consent is not given, the authorities have no other way to acquire the said land without complying with the provisions of Section 44 of the West Bengal Panchayat Act, 1973.

The Block Development Officer shall demarcate the area of the petitioners' land over which such road has been constructed. Such demarcation will be made with the help of the Amin employed in the Block Land and Land Reforms Office. The demarcation will be made exclusively on the basis of the petitioners' title deeds, land records, Mouza map and other documents.

However, the petitioners may also be open to negotiation and the authorities shall come to a solution, if it is found that the allegation of the petitioners is correct and a portion of the land of the petitioners had been utilized for the above purpose. If the petitioners do not consent or the negotiation fails, then action shall be taken strictly in accordance with law. A reasoned order shall be passed and communicated.

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

Accordingly, 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.)