

01.08.2023
Item No.12
gd/ssd

WPA(P)/24/2023
SK. ASGAR ALI AND ORS.
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Bijoy Adhikary,
Mr. Nirmalendu Ojha,
Mr. Raja Biswas,
Mr. Abhijit Sarkar,
Ms. Susmita Adhikary
..for the Petitioners.

Mr. Rajarshi Basu,
Mr. K.M. Hossain
..for the State.

Mr. Sharanya Chatterjee,
Mr. Nepesh Majhi
..for the Respondent No.5.

Mr. Subrata Santra
..for the Respondent Nos.12 to 15.

1. By this public interest litigation the petitioners seek for a direction upon the 2nd respondent to demolish an illegal construction put up in a land which is a vested land.

2. There appears to be no dispute on facts as could be seen from the proceedings of the Block Land and Land Reforms Officer, Faridpur-Durgapur dated 05.07.2022, which is quoted hereinbelow:

“Memo No.1319/BLRO/FD/2022

Dated: 05/07/2022.

To

The District Magistrate & District Vigilance Officer
Anti Corruption/Vigilance Unit
Paschim Bardhaman

Sub : Field Enquiry Report on LR Plot No 295, 297, RS Plot No.20 and RS Plot No 295, 296, LR Plot No 47, 56 of Hari Bazar, JL No 106

Ref: His Office Memo No77/Vig/AC(Paschim Bdn/)-269/2022 dated 12/05/2022.

Sir,

As per subject and reference mentioned above a joint field enquiry with your representative and office of the undersigned was held on 02/06/2022.

Enquiry report reveals that LR Plot No 295 and 297 is rayati in status and far from Commercial construction, LR Plot No 56 is in the name of Forest Deptt. And vacant so far.

LR Plot No 47 and 288 are vested land under Khatian No 1 on which 0.0350 acres and 0.015 acres were respectively occupied by Amontron Apartments by constructing High-drain and concrete Road.

This for his kind information and taking necessary action.

Thanking you,

Yours faithfully,

Block Land and Land Reforms officer,
Faridpur-Durgapur.
Dated: 05/07/2022”

3. The reading of the above would clearly show that LR Plot Nos. 47 and 288 are vested land under Khatian No.1 on which 0.0350 acres and 0.015 acres have been occupied by the 12th respondent by constructing High-drain and concrete Road.

4. Though such information was furnished to the District Magistrate as early as on 05.07.2022 followed by representation given by the petitioners on 20.12.2022, till date the District Magistrate has not initiated action.

5. Considering the fact that the appropriate authority, namely, the Block Land and Land Reforms Officer has come to the conclusion that a vested land has been encroached upon by the 12th respondent and High-drain and concrete Road has been made, action has to be initiated against such illegal construction.

6. Therefore, we direct the 2nd respondent to immediately issue notice to the private respondents, namely, respondent nos.12 to 15 as well as to the writ petitioners as also the Asansol-Durgapur Development Authority and in presence of all parties a site inspection should be conducted and thereafter the private respondents, namely, respondent nos.12 to 15 can be permitted to submit their reply and after which, action should be initiated in accordance with law.

7. This direction should be complied with within a period of six weeks from date from the date of server copy of this order.

8. Needless to state that if ultimately the District Collector comes to the conclusion that there is illegal construction in a vested land, the respondent nos.12 to 15 should be granted 15 days' time to remove the offending illegal construction, failing which the construction shall be removed departmentally and the cost shall be recovered from the respondent nos.12 to 15.

9. With the above observations, the writ petition stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)