

Court No. 19

WPA 2163 of 2023

08.05.2023

(A 10)

(S. Banerjee)

Smt. Ostobala Parbat @ Asthamani Parbat

Vs.

The State of West Bengal & Ors.

Mr. M. Rahman

Ms. Sumi Khatun

... for the petitioner

The petitioner alleges that the Kalyanpur Gram Panchayat has forcibly utilized a portion of the petitioner's land for construction of a concrete village road. According to the petitioner, the said construction has been made on plot no. 213, corresponding to Khatian No. 89 in Mouza Tongtala.

Reliance has been placed on Section 44 of the West Bengal Panchayat Act, 1973 and it is submitted that neither any permission was taken from the petitioner nor steps were taken for compensating the petitioner for the use of his private land. The petitioner claims to be the sole owner of the 14 decimals of land on the said plot.

Records reveal that the petitioner, through his learned advocate, approached the Block Development Officer, Baruipur Block demanding justice on September 7, 2022. Subsequently, representations have also been filed on various occasions.

The writ petition is disposed of with a direction upon the Block Development Officer, Baruipur Block to dispose of the demand of justice dated September 7, 2022 in accordance with law. While doing so, following procedure shall have to be adopted:

- a) An inspection of the site shall be conducted by the Block Development Officer, with notice to the petitioner. Officials and the Amin from the office of the BL&LRO shall be deployed to demarcate and measure the land.
- b) A report of such inspection shall be prepared. Measurement of the land of the petitioner and also the route through which the alleged road had been allegedly constructed, shall be recorded. A rough sketch map shall be annexed to the report.
- c) A copy of the report shall be handed over to the petitioner as also to the Block Development Officer.
- d) The petitioner will be entitled to respond to such report.
- e) Upon hearing the petitioner and on the basis of the report as also on the basis of what transpired during such inspection, a decision shall be taken, indicating whether the

allegation of the petitioner that the alleged construction was through the land of the petitioner was correct or not.

- f) A reasoned order shall be passed and communicated.
- g) If the BDO finds that the allegation of the petitioner is correct, steps shall be taken in accordance with the provisions of Section 44 of the West Bengal Panchayat Act, 1973 to either acquire the land and compensate the petitioner or to purchase the property directly from the petitioner, in accordance with law. If the allegation of the petitioner is incorrect such finding with reasons, shall be recorded in the order.
- h) The entire exercise shall be completed within a period of three months from the date of communication of this order.

Needless to mention, the court has not gone into the merits of the allegations made by the petitioner and the entire issue shall be decided independently, upon conducting the inspection, demarcation and measurements of the land in question, as directed above. Any construction made in the meantime, shall abide by the final decision in this matter.

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.)