

WPA 2168 of 2023

Himangsu Sekhar Metia & anr.
Vs.
The State of West Bengal & Ors.

Adv. Robiul Islam,
Adv. K. M. Hossain,
Adv. Raju Mondal,

...for the petitioners.

Adv. Chandi Charan De,
Adv. Anirban Sarkar,

...for the State.

Affidavit of service filed by the petitioners is taken on record.

Heard learned counsels for the parties.

The order passed by the District Magistrate, Purba Medinipur under Section 10(4) of the West Bengal Highways Act, 1964 on 11th January, 2023 is assailed in the writ petition. The order records that the entire plot no.3 of Nunhanda Mouza is occupied by illegal encroachers and directs the Assistant Engineer, Tamluk Sub-Division P.W. (Roads), Directorate to take necessary steps for removal of such encroachment.

Learned counsel appearing for the petitioners submits that the petitioners are recorded owners of 14 decimals of land in plot no.3 and their right, title, interest and possession in respect of the said property has been declared by the civil Court in Title Suit no.18 of 2000 by an order passed on 30th September, 2010. Learned counsel further submits that the District Magistrate did not take

into account the said declaration made by the civil Court and passed the order impugned without demarcating the plot in question. According to the petitioners, though 57 decimals out of entire 71 decimals of land in the said plot were acquired by the Government, the petitioners are still in possession of 14 decimals therein as owners thereof.

It transpires from the order impugned that the case made out by the petitioners was not taken into consideration by the authority and the order was passed solely on the anvil of the report submitted by the Block Land & Land Reforms Officer, Bhagawanpur – I. The order is silent as to whether any demarcation of the entire plot was made in order to ascertain the portion acquired by the State and the portion owned and occupied by the petitioners. The order impugned being bereft of proper reasoning, is required to be set aside.

Accordingly, the order impugned by the District Magistrate, Purba Medinipur on 11th January, 2023 is set aside.

The District Magistrate, being the 2nd respondent herein, is directed to reconsider the matter in the light of the observation made in this order as well as the order of the civil Court passed on 30th September, 2010 in Title Suit no. 18 of 2000 upon giving reasonable opportunity of hearing to the petitioners, in accordance with law.

The petitioners shall be at liberty to place all documents in support of their title and possession in

respect of the property in question before the concerned authority at the time of hearing.

The entire exercise is expected to be concluded within two months from the date of communication of this order.

Pending disposal of the appeal under Section 10(4) of the Act of 1964 no coercive steps shall be taken against the petitioners by the authority in respect of the plot in question.

With the above observations and directions this writ petition being WPA 2168 of 2023 is disposed of.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)