

Item No.24
20.03.2023
Court. No. 19
GB

WPA 5666 of 2023

Tushar Partra
Vs
The State of West Bengal & Ors.

Mr. Surendra Kumar Sharma

...for the Petitioner.

*Mr. Narayan Ch. Bhattacharyya,
Ms. Sujata Ghosh*

...for the State.

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

The petitioner alleges that the Balarambati Gram Panchayat had acted in violation of Section 44 of the West Bengal Panchayat Act, 1973, (hereinafter referred to as the 'said Act') by utilizing the land of the petitioner for construction of a pathway for ingress and egress of the villagers, without either taking consent from the petitioner or compensating the petitioner in some way. Section 44 of the said Act is quoted below:-

“44. Where a Gram Panchayat requires land for carrying out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the [Collector] for the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land and such land shall, on acquisition, vest in the Gram Panchayat.”

Under such circumstances, the writ petition is disposed of with a direction upon the District Magistrate, Hooghly to cause an inspection through the Block

Development Officer, Singur Development Block and the Block Land and Land Reforms Officer of the concerned block in order to ascertain whether any portion of the agricultural land over which the petitioner claims exclusive right, title and interest had been utilized for construction of the pathway. For such purpose, a demarcation shall be made. The inspection shall be held in the presence of the petitioner and other villagers, who use the said pathway. A hearing shall be given to the petitioner. A report shall be prepared and served upon the petitioner.

If it is found that the petitioner has exclusive right, title and interest over the land on which the alleged pathway has been constructed, steps shall be taken in terms of Section 44 of the said Act. It is made clear that negotiation may also include outright purchase from the petitioner.

The entire exercise shall be completed within a period of four months 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.)