

April 24, 2023
Sl. No.7
Court No.19
s.biswas

WPA 6168 of 2023
With
CAN 1 of 2023

Nirmala Metia

vs.

The State of West Bengal and others

Mr. Ranjan Kali,
Mr. Avik Pramanik, Advocates

... for the petitioner

Mr. Benazir Ahmed, Advocate

... for the State

Mr. Amit Pan,
Mr. Haridas Das, Advocates

... for the respondent Nos.6 & 7

The writ petition had been entertained by this Court as the petitioner alleged forceful user of a portion of the petitioner's land by the panchayat authorities. Allegedly the land was used as a passage for ingress and egress of the petitioner.

On the earlier occasion, the petitioner contended that the panchayat authorities had engaged a contractor for construction of a road. The alleged passage is situated on plot nos.1822/2279 and 1824 of Mouza-Paikpari, within the local limits of Kola-II Gram Panchayat.

Some of the persons, who had purchased their land from the petitioner, had moved this Court under Article 226 of the Constitution of India, alleging construction of a road by the panchayat authorities, encroaching their land.

The Court directed that the road should be constructed as per the demarcation made by the Block Development Officer, Kolaghat Development Block, without encroaching any portion of the lands belonging to the petitioners therein.

Mr. Pan, learned advocate for the panchayat authorities, had submitted that as the lands were classified as 'jal', the question of construction of road by the panchayat authority over portions of plot nos.1822/2279 and 1824 of Mouza Paikpari did not arise. Learned advocate submitted that the road had been constructed over the demarcated area.

In order to dispel the confusion raised by the submissions of the respective parties, this Court had directed the Block Development Officer, Kolaghat Development Block, to conduct an inspection in the presence of all the parties and submit a report.

Mr. Ahmed, learned advocate appearing for the State has submitted a report of the Block Development Officer along with reports of the Block Land and Land Reforms Officer, Kolaghat (Panskura-II) and the Revenue Officer, Kolaghat Development Block.

According to the said reports, there is a newly constructed road about 3 feet to 3.5 feet wide, running from west to east, along the northern side of plot nos.1822/2279 and 1824. On verification of

records, it was found that Kola-II Gram Panchayat did not construct the said road. The statement of the Nirman Sahayak and the contractors have been enclosed.

The inspection report of the Revenue Inspector reveals that a concrete road along the northern side of plot nos.1822/2279 and 1824, running from west to east, is in existence. The pathway was found to be approximately 3 feet to 3.5 feet wide. It was also found that there was a concrete path on L.R. Plot No.2390, situated along the southern side of the disputed plots, running from west to east.

The petitioner was not present during such inspection. Some of the local persons were present. They claimed that they had the right to use the alleged pathway (now a concrete road) as per their purchase deeds. It also appears that the petitioner had sold some of her land apart from the area on which the alleged pathway was found to be existing. A sketch map showing the existing pathway not drawn to scale, has also been annexed to the report. The record of rights indicates that the land is still classified as 'jal'.

The Nirman Sahayak informed the Block Development Officer by his letter dated March 21, 2023, that neither the contractor nor the panchayat authorities had taken steps to construct the road.

Some of the beneficiaries under a scheme, constructed the road.

Admittedly, there was a scheme for construction of a concrete road at the plot nos.1822/2279 and 1824. It has been categorically stated in the report of the Block Development Officer that the panchayat authorities had not granted any permission for construction of the road. The road was not a part of the scheme.

With regard to allegation of unauthorized conversion of the plot of land classified as 'jal', the remedy of the petitioner lies before the Block Land and Land Reforms Officer, Kolaghat, seeking action in terms of the provisions of West Bengal Land Reforms Act, 1955.

The allegation of unauthorized use of the land partially belonging to the petitioner, by private parties and the prayer for restoration of the land to its original position, should be decided by a civil Court.

The Court does not agree with Mr. Kali's contention that the panchayat authorities should be directed to settle the dispute, and remove the construction.

Section 23 of the Panchayat Act is applicable only to buildings.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

In view of the above order, the recalling application filed by the panchayat authorities, being CAN 1 of 2023, is also disposed of without any orders.

All the parties are directed to act on the basis of server copy of this order.

(Shampa Sarkar, J.)