

Item No.18
17.04.2023
Court. No. 19
GB

WPA 7036 of 2023

Nirmal Kumar Mondal
Vs
The State of West Bengal & Ors.

Mr. Debajyoti Deb,
Mr. Tamal Ghosh,
Mr. Somdyuti Parekh

...for the Petitioner.

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

Mr. Deb, learned advocate appearing on behalf of the petitioner submits that pursuant to the order passed by this Court on April 3, 2023, the construction of the alleged road over L.R. Dag No.93 of Mouza-Amjhara had been temporarily stopped.

The writ petition has been filed with the allegation that the authorities of Amjhara Gram Panchayat had started constructing a road partly over the land belonging to the petitioner and other co-sharers in respect of which, a title suit is pending. It is contended that there is a subsisting order of status quo. The said suit has been registered as Title Suit No.374 of 2022. The suit is pending before the learned Civil Judge (Senior Division), 2nd Court at Baruipur, South 24 Parganas.

This Court is of the view that before any private land is used for implementation of any public project, consent of the owners of such land must be taken. If negotiations fail, then

steps are to be taken for acquisition of the property and compensation must be paid.

Under such circumstances, the writ petition is disposed of with a direction upon the Block Development Officer, Basanti Development Block, to treat the writ petition as a representation and dispose of the same in accordance with law, upon hearing the petitioner, other co-sharers as also the authorities of Amjhara Gram Panchayat. While deciding the issue, the Block Development Officer shall hold an inspection and cause demarcation of the area allegedly belonging to the petitioner and the other co-sharers and in respect of which a title suit is pending. Such demarcation shall be made in presence of the Block Land and Land Reforms Officer and the Amin. The inspection report shall be supplied to the parties and the parties shall be entitled to respond to such report. A hearing shall be given to the parties and necessary orders shall be passed.

If upon demarcation of the land, it appears that a portion of the land of the petitioner and the co-sharers in respect of which title suit is pending was being used for construction of the alleged road, steps shall be taken in accordance with law.

It is made clear that the panchayat authorities cannot utilize any private land without following the provisions of Section 44 of the West Bengal Panchayat Act, 1973.

This Court has not gone into the merits of the allegations of the petitioner. The entire issue shall be decided independently.

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