

25.01.2023
Court No. 19
Item 468
CP

W.P.A. No. 7499 of 2022

Amaresh Panda & ors.
Vs.
The State of West Bengal & Ors.

Mr. Manish Kumar Das
....for the petitioners.

Mr. Narayan Ch. Bhattacharyya
Ms. Sujata Ghosh
...for the State.

Despite service, none appears on behalf of the panchayat authorities.

The petitioners allege that the authorities of Piasala No. 9 Gram Panchayat, constructed a morum road through the land of the petitioners situated at Plot No. 418 of Mouza – Humgarh.

Undoubtedly, the authority can use a private land for construction of roads and other structures for public purpose, but such construction cannot be made without complying with the provisions of Section 44 of the West Bengal Panchayat Act, 1973.

The petitioners submit that the authorities had neither taken consent nor proceeded to acquire the land.

The petitioners have already approached the Block Development Officer with their grievances by

filing a representation. A copy of the same is marked as Annexure P-9 at page 64 of the writ petition.

Without going into the merits of the claim of the petitioners, the writ petition is disposed of with a direction upon the Block Development Officer, Garbeta – II to dispose of the representation of the petitioners in accordance with law.

An inspection shall be held by the Block Development Officer in the presence of the parties. Assistance of an amin from the Block Land & Land Reforms Office shall be taken for such purpose. The authority shall cause a demarcation of the land of the petitioners and the land on which the alleged morum road has been constructed.

A report shall be prepared along with a sketch map. A hearing shall be granted to the petitioners as also the concerned pradhan.

If it is found by the Block Development Officer that the allegation of the petitioners are correct, the panchayat authority shall proceed in accordance with the provisions of Section 44 of the West Bengal Panchayat Act, 1973, or purchase the land.

If the allegations are found to be incorrect, reasons for such finding shall be recorded in the order to be passed.

In either case, a reasoned order shall be passed and communicated to the petitioner as also

the Pradhan, within a period of three months from the date of communication of this order. The construction made so far, shall abide by the final decision of the authority. 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.)