

Item No. 13
22.02.2023
Court. No. 19
GB

W.P.A. 10684 of 2022

Sri Tanmoy Kumar & Ors.
VS
The State of West Bengal & Ors.

*Mr. Ziaul Haque,
Mr. Mimadri Kr. Mahata*

...for the Petitioners.

*Mr. Jahar Lal Dey,
Mr. Supratim Dhar*

...for the State.

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

Despite service, none appears on behalf of the respondent nos.8 and 11 to 15. The respondent nos.11 to 15 refused service. It further appears that subsequent notices were also issued upon the said respondents, who are not before the Court.

The petitioners allege that the Pradhan of Parambua-Sahabazar Gram Panchayat in collusion with the respondent nos.11 to 15 constructed a concrete road over the land of the petitioners. The lands are plot nos.1058, 1061 and 1062 situated at Mouza-Choutara.

It is the contention of the petitioners that their right, title and interest had been declared in a civil suit.

The allegation of the petitioners cannot be decided by this Court as there are disputed questions of fact.

Under such circumstances, this Court is of the view that the first exercise to be conducted by the authorities

would be to demarcate the area over which such road had allegedly been constructed.

The writ petition is disposed of with a direction upon the Block Development Officer, Dhaniakhali Block to inspect the lands in question in presence of the petitioners, the Pradhan of Parambua-Sahabazar Gram Panchayat as also the respondent nos.11 to 15. Such inspection shall be held for the purpose of demarcation of the land of the petitioners and the land over which the road had been constructed. The assistance of the Block Land and Land Reforms Officer shall be taken during the process of demarcation. Such demarcation shall be made on the basis of the title deeds and other documents available with the petitioners, vis-à-vis, the land records available in the office of the Block Land and Land Reforms Officer.

If the contention of the petitioners is found to be correct, in that event steps shall be taken either in terms of Section 44 of the West Bengal Panchayat Act, 1973 or a method shall be adopted to compensate the petitioner. If the contention of the petitioners is found to be incorrect or there is a dispute with regard to the title in respect of the land over which the road has been constructed, the matter has to be decided by a civil court. At the time of inspection, a report shall be prepared and handed over to the petitioners and other parties involved so that they may respond to the same. Thereafter, a hearing shall be given by the Block Development Officer to all the parties. A reasoned order shall be passed and communicated to all.

This Court has not gone into the merits of the claims of the petitioners.

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