

11.04.2023
Sl. No.62(ML)
srm

W.P.A. No. 11872 of 2022

Sri Kanai Lal Ghosh & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Sanat Kumar Roy,
Mr. Abhishek Banerjee

....for the Petitioners.

Mr. Himadri Sikhar Chakbraorty,
Ms. Susnita Saha

...for the State-respondents.

Mr. Suman Basu

...for the Respondent No.3.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the panchayat authorities.

The petitioners allege that the Mandaran Gram Panchayat, Hooghly, had forcefully constructed a “*Porjoton Kendra*” on Plot No.155 of mouza Rangamati.

It appears that the petitioners had gifted a portion of the said plot measuring about one decimal to the panchayat authorities for construction of the building. The allegation is, that the authorities have used a larger area without permission from the petitioners. According to the petitioners, Section 44 of the West Bengal Panchayat Act

mandates that the panchayat authorities can obtain private land for public use either through negotiation, settlement or acquisition. The petitioners are not willing to negotiate at this stage. The petitioners allege that the remaining portion beyond the one decimal that had been gifted to the panchayat authorities, should be either restored to its original position or the petitioners should be compensated.

It appears that the construction was for public purpose. If it is found that the construction was beyond the area gifted by the petitioners to the panchayat authorities, the petitioners are liable to be compensated.

Without demarcation of the area gifted to the panchayat authorities and the area over which the entire construction has been made, the Court is not in a position to pass mandatory directions.

Hence, the writ petition is disposed of with a direction upon the Block Development Officer, Goghat, Hooghly, to treat the writ petition as the representation of the petitioners and dispose of the same, in accordance with law.

The authority will decide whether any portion of the land of the petitioners beyond the gifted portion had been utilized for construction of the "*Porjoton Kendra*" or not. An inspection and demarcation shall be made in

presence of the petitioners, the panchayat authorities, Block Land and Land Reforms Officer and the Amin. A report with sketch map shall be supplied to the parties and thereafter the parties shall be at liberty to file their written objection/version to the said report and also adduce oral and documentary evidence in support of their contentions. A hearing shall be given to all the parties and a reasoned order shall be passed and communicated. If the allegation of the petitioners is found to be correct i.e., a portion of the land of the petitioners beyond the portion gifted had been utilised for the construction of the "*Porjoton Kendra*", steps shall be taken to compensate the petitioners, in accordance with law or the area may be purchased from the petitioners.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

The Court has not gone into the merits of the claims of the petitioners and the issue raised shall be decided by the competent authority, independently.

A copy of the writ petition along with a server copy of this order be served upon the Block Development Officer, Goghat, Hooghly.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of
this order.

(Shampa Sarkar, J.)