

18.04.2023
Sl. No.93(ML)
srm

W.P.A. No. 13726 of 2022

Rabindra Nath Dey & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Keshab Chandra Das,
Mr. Biplab Adak

....for the Petitioners.

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

The petitioners allege that the Pradhan, Jaragram Gram Panchayat, Purba Bardhaman, had forcefully used a portion of land situated at Plot No.946 of mouza Mahisgoria, for construction of a concrete road. The petitioners claim to be owners in respect of the said land and submit that the authorities violated the law.

According to the petitioners, Section 44 of the West Bengal Panchayat Act provides that the gram panchayat must negotiate with the owners, if the authority wants to use any portion of a private land, for implementation of a public project. If negotiations fail, steps are to be taken to acquire the property. Under no circumstances, can the panchayat authorities use private land without permission

from the land owners or without compensating the said land owners.

The correctness of the allegations of the petitioners cannot be ascertained. These are disputed questions of facts which can be ascertained only upon demarcation of the land of the petitioners and the area over which the road is being constructed.

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

Before any decision is taken, the petitioners, Pradhan of Jaragram Gram Panchayat and any other interested party, shall be asked to participate at an inspection to be held by the Block Development Officer with the assistance of the concerned Block Land and Land Reforms Officer and the Amin. Measurements shall be taken and a demarcation shall be effected. The title deeds and documents of possession available with the petitioners as also the land records and mouza map etc available in the office of the Block Land and Land Reforms Officer, shall be consulted. A report along with a 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, steps shall be taken in terms of Section 44 of the West Bengal Panchayat Act. Alternatively, the authority may also propose to purchase the area to be used for the purpose of construction of the road from the petitioners.

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

Any construction so far, shall abide by the result of the final decision of the authority.

This order shall not be construed as a declaration of the right, title and interest of the petitioners in respect of the said land in question.

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, Jamalpur Development Block, Purba Bardhaman.

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.)