

May 2, 2023
Sl. No.5
Court No.19
s.biswas

WPA 17003 of 2022

Rameshwar Dalai

vs.

The State of West Bengal and others

Mr. Amit Baran Dash,

Mr. Jayanta Dey,

Ms. Ankana Sarkar

... for the petitioner

Mr. Lalit Mohan Mahata, AGP

Mr. Prasanta Behari Mahata

... for the State

In the order dated April 19, 2023, the names of the State respondents have gone down wrongly.

Let the names be deleted. The office is directed to take necessary steps.

A copy of the writ petition be served upon Mr. Mahata, learned Additional Government Pleader.

The Court is of the opinion that the order passed by the Block Development Officer, Contai-I Development Block, is not satisfactory. The language used in the impugned order does not provide any clarity as to the actual position of the road. Although, the authority has stated that the road has been constructed between the two mouzas and there is a border of 7 feet wide, such observation does not disclose whether the petitioner's land had been used or not. The Court cannot adjudicate the correctness of the impugned order, on the basis of such ambiguous statements.

By an order dated September 22, 2021, passed in WPA 11542 of 2021, the Court had directed the

Block Development Officer, Contai-I Development Block to dispose of the representation of the petitioner dated June 7, 2021 in accordance with law, upon hearing the petitioner as also the competent authority of No.5 Mahishagot Gram Panchayat. The authority directed that an inspection of the area over which a road had allegedly been constructed by the gram panchayat, be carried out and demarcation be made. Records available in the office of the Block Land and Land Reforms Officer should be consulted during such process.

The issue to be decided was whether any road had actually been constructed by the panchayat authority over the land belonging to the petitioner or not. The petitioner is one of the heirs of late Manahar Dalai. Thus, the petitioner as an heir of late Manahar Dalai (recorded owner) was justified in raising objection. If the panchayat authorities had constructed a road through the land recorded in the name of Manahar Dalai, in that case, the petitioner had a right to be compensated. The observation of the Block Development Officer does not clarify whether the construction was actually on the 16 decimals of land out of the total 32 decimal land, on plot no.595/630 of Mouza Ratanpur, which was classified as 'jal'.

Although, the Block Development Officer is of the opinion that village road had been constructed between two mouzas, namely Ratanpur and Badalpur (2nd part) and there was a border of about 7 feet wide, further clarification is required as to whether the said road, as it was found on inspection, was actually over the 16 decimals of land recorded in the name of Manahar Dalai.

The writ petition is disposed of directing the Block Development Officer, Contai-I Development Block to make a further inspection along with the Block Land and Land Reforms Officer, Contai-I and pass necessary orders in accordance with law. The petitioner, the other heirs of Manahar Dalai, if any, the panchayat authorities as also the Block Land and Land Reforms Officer shall be physically present during such inspection and measurement.

A reasoned order will be passed by the Block Development Officer on the basis of the inspection and demarcation. The Amin shall prepare a rough sketch map delineating the position of the road and the position of the petitioner's land. The order will indicate the following:-

a) Whether the road was between to mouzas and there was sufficient space or gap between the boundary of the road and the boundary of the land belonging to the said Manahar Dalai.

b) Whether the road passed through any portion of the land of Manahar Dalai.

c) Whether the other heirs of Manahar Dalai had given permission for construction of the road.

The order passed by the Block Development Officer, Contai-I Development Block dated February 21, 2022 is set aside as the same suffers from ambiguity and lack of clarity.

The entire exercise shall be completed within a period of six weeks 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 server copy of this order.

(Shampa Sarkar, J.)