

Item No.4
23.02.2023
Court. No. 19
GB

WPA 17044 of 2018

Najimuddin Sk.
Vs
The State of West Bengal & Ors.

*Mr. B.N. Ray,
Ms. Shetparna Ray*

...for the Petitioner.

*Mr. Sunil Gupta,
Mr. Hasibul Islam*

...for the Respondent Nos.2 & 3.

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

Despite service, none appears on behalf of the State respondents.

The petitioner's allegation is that the Zilla Parishad had constructed a road over the petitioner's land situated at Dag No.427 of Mouza-Dakshin Sahar, classified as 'Dahari'. Approximately, 15 decimals had been utilized for the aforementioned road. The road extends from Dakshin Sahar Khoarpara More to Barianagar More under Saralpur Gram Panchayat, Bhagabangola-II Block, Murshidabad.

The petitioner further alleges that the construction was under a particular developmental scheme undertaken by the Murshidabad Zilla Parishad. The specific allegation has been made that consent from the owner of the land was never taken by the Zilla Parishad. No compensation was paid. Further allegation is that the procedure laid down in Section 178 of the West Bengal Panchayat Act, 1973 was not followed.

The provision of law is quoted hereinbelow:-

“178. Acquisition of land for Zilla Parishad.- Where a Zilla Parishad requires land to carry out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the Collector for the acquisition of the land and the Collector may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Land Acquisition Act, 1894 (1 of 1894) and such land shall, on acquisition, vest in the Zilla Parishad.”

Under such circumstances, the writ petition is disposed of with a direction upon the District Magistrate, who is the Executive Officer of Murshidabad Zilla Parishad to identify and demarcate the land over which the alleged road had been constructed through the Additional Executive Officer and an experienced engineer. The assistance of the Block Land and Land Reforms Officer shall be taken during such process. Such demarcation shall be made on the basis of the title deeds and other documents available with the petitioner, vis-à-vis, the land records available in the office of the Block Land and Land Reforms Officer. Such demarcation shall be made in the presence of the petitioner. A report shall be prepared upon effecting such demarcation. The report shall be handed over to the petitioner. The petitioner will be granted liberty to file a written objection/written statement in response to such report. Thereafter, a hearing shall be given to the petitioner. A reasoned order shall be passed and communicated to the petitioner.

In this case, the petitioner is not willing to negotiate. Thus, if it is found that a portion of the land of the petitioner had been utilized for construction of the road, the appropriate authority shall take steps to compensate the petitioner by either acquiring the land or by purchasing the land as outright sale. If the allegation of the petitioner is found to be incorrect or there are rival claims and disputes with regard to title and boundary in respect of the said land in question, the petitioner shall be relegated to the appropriate civil court for adjudication of his title and interest.

The entire exercise shall be completed within a period of two months 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 the server copy of this order.

(Shampa Sarkar, J.)