

S/L 8
02.01.2023
Court. No. 19
GB

W.P.A. 19373 of 2022

Khalek Laskar & Anr.
VS
The State of West Bengal & Ors.

Mr. M.P. Gupta,
Mr. D.K. Saila.

...for the Petitioners.

Mr. Manoj Malhotra,
Mr. Suman Dey.

...for the State.

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

Despite service on two occasions, none appears on behalf of the respondent nos.7 to 15.

The petitioners allege that certain constructions have been raised on L.R. Dag Nos.336 and 337 of Mouza-Golabari at the instance of the Itkhola gram panchayat for rehabilitation of the victims affected by 'Aila'. The petitioners claim right, title and interest in respect of the said land on the basis of their registered deeds of sale. Reliance has also been placed on the record of rights.

It appears that the petitioners raised some queries under the Right to Information Act before the Block Land and Land Reforms Officer with regard to the said land and constructions.

In the application under the Right to Information Act, the petitioners had made allegations that the alleged construction for rehabilitation of the victims affected by 'Aila' would cause environmental hazard and wastage of

public money. The petitioners also complained that the gram panchayat authorities were taking advantage of their position and were misappropriating funds.

Various questions were raised and information were sought for. Such as, whether the constructions were made under any project of the government; whether the land on which such constructions were being made belonged to the government; whether any encroachment had taken place over private lands of individuals; whether the construction was in violation of the order of the learned Executive Magistrate, Canning, passed in M.P. Case No.788 of 2022; who were beneficiaries, etc.

To such queries, the SPIO Canning-1 Block, answered that the place of construction of cyclone shelter (mentioned as 'Aila Building') was under the Itkhola gram panchayat. The same was a government land and the land had been classified as a 'Haat'. The construction was on Dag No. 686 corresponding to J.L. No.120. The construction was on 0.63 acres. The land was recorded in favour of the Collector, Government of West Bengal. No encroachment was found. The construction was under a project named and styled as 'Multipurpose Rescue Shelter of Government of West Bengal'. The work was being done under the directions of the District Magistrate. The cyclone shelter was being constructed for rehabilitation of around 1000 persons. About 0.59 acres of Dag No.686 was recorded in the name of the Collector, Government of West Bengal and 0.04 acres was

recorded in the name of one Debabrata Guha, corresponding to Khatian No.1037.

Under such circumstances, there appears to be a title/boundary dispute. The petitioners allege that a portion of the land of the petitioners was also utilized by the project. Clearly the authorities have disputed such allegation and replied to the queries of the petitioners indicating that there was no encroachment by any authority in construction of the shelter.

Under such circumstances, the writ Court cannot decide the title dispute raised by the petitioners.

The queries made under the Right to Information Act do not indicate that the petitioners had at any point of time informed the authority that the portion of land on which the construction was being made actually belonged to the petitioners. Rather, the petitioners complained of environmental hazards, defalcation, misrepresentation. This Court is of the view that stray allegations cannot be entertained. Moreover, the queries which have been answered by the Block Land and Land Reforms Officer and the record of rights which have been annexed to the answers given to the petitioners under the Right to Information Act clearly indicate that the total dag measures 0.63 acres. Approximately 0.59 acres had been recorded in the name of the Collector, Government of West Bengal under Khatian No.1 and 0.04 acres had been recorded in the name of Debabrata Guha. No encroachment had been detected.

Under such circumstances, the allegation of encroachment cannot be decided by the writ Court. The matter has to be decided in a civil suit, upon evidence. The writ petition is disposed of without any orders.

The petitioners are at liberty to approach the civil court.

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.)