

01.02.2023
rc/ct.no.10
Item No.65

WPA No. 27074 of 2022

Mr. Bhagabat Chowdhury
Mr. C. Patra
Mr. Subrata Mukherjee ...for the petitioner

Mr. Soumitra Bandyopadhyay
Mr. Subhasis Bandyopadhyay ...for the State

Mr. Uttam Kumar Bhattacharjee
...for the respondent no. 5

Affidavit of service filed in Court today is taken on record.

The petitioner claims to be the recorded owner of the plot in question and submits that in the process of reconstructing the village pathway adjoining his plot, the authority has encroached upon considerable portion of his plot, thereby causing damage to his shop room standing thereon.

Pursuant to an order passed by this Court on 25th February, 2022 in WPA No. 19330 of 2021 directing the concerned authority to consider and dispose of the representation submitted by the petitioner in this regard, the District Magistrate, Purba Medinipur, by an order passed on 25th May, 2022, recorded that the road was constructed between 26th February, 2019 and 24th April, 2019 and no objection was raised by the petitioner during the said period before the Zilla Parishad and also, the petitioner has his shop room in the said plot. The District

Magistrate requested the Secretary of Purba Medinipur Zilla Parishad to cause an inspection to ascertain whether any damage to the shop room of the petitioner was caused by the construction of the road and in the event of such damage arrange for payment for repairing compensation in favour of the petitioner. Though the petitioner alleges that portion of his land has been encroached upon and utilised by the Zilla Parishad in reconstructing the village road, the said fact is denied by the latter who submits that the village road has been reconstructed on the earlier road and has not been extended on any of the sides.

Having considered the submission made on behalf of the parties this Court is inclined to hold that a joint field enquiry is required to be conducted in order to ascertain whether any portion of the land of the petitioner has been encroached upon/utilised by the Zilla Parishad in reconstructing the village road.

Accordingly this writ petition is disposed of directing the 5th respondent to cause field enquiry of the plot in question with the assistance of 8th respondent in presence of the petitioner or his authorised representative in order to ascertain whether such encroachment has been made. In the event encroachment is found, the said authority shall take necessary steps for removal of such encroachment and restoration of the land to the petitioner in its original nature, character and condition failing which

the authority shall pay adequate compensation to the petitioner for the same.

The entire exercise is expected to be completed within two months from the date of communication of this order.

With the above observations and directions this writ petition is disposed of.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)