

06.02.2023
Sl. No.13(ML)
srm

W.P.A. No. 28460 of 2022
Sree Anup Ghosh @ Anup Kumar Ghosh
Versus
The State of West Bengal & Ors.

Ms. Diptakshi Sarkar
.....for the Petitioner.

Ms. Jhuma Chakraborty,
Mr. Aritra Ghosh
...for the State-respondents.

Perused the report of the Officer-in-Charge, Kalitalaashuti Police Station, Diamond Harbour Police District. It is an admitted position that a concrete road is being constructed by the Chatta Gram Panchayat alongside a pond in the concerned village, for the benefit of the villagers. Most of the villagers have donated their lands for construction of such road. The Pradhan of the said gram panchayat has denied before the police authorities that any portion of the road had encroached into the land of the petitioner. The road is admittedly beside a village pond measuring about 100 ft. X 5ft. over Dag No.125 of mouza Rameshwarpur.

The petitioner claims title on the basis of inheritance and a *solenama* decree of the civil court. It also appears that

there are other co-sharers in respect of the said land and a partition suit is pending.

The issue as to whether any portion of the road had encroached into the portion owned and occupied by the petitioner and other co-sharers, cannot be decided by the Court. A survey and a demarcation by the Amin from the office of the Block Land and Land Reforms Officer on the basis of the title deeds, LR records, mouza map, etc. should be made. Whether the other co-sharers are willing to allow such construction of the road is not before the Court, but the police authorities did not find anyone else apart from the petitioner, to have raised any objection.

Under such circumstances, the writ petition is disposed of with a direction upon the Block Development Officer, TTM Block, to treat the writ petition as the representation of the petitioner and dispose of the same, in accordance with law. The Pradhan, Chatta Gram Panchayat, the petitioner and the other co-sharers in respect of the said land being LR Dag No.125 of mouza Rameshwarpur shall be heard by the authority with regard to the allegations made in the writ petition. Prior to such hearing, an inspection will be made with the help of the Amin and the Block Land and Land Reforms Officer for demarcation of the portion of the land allegedly owned

and occupied by the petitioner and other co-sharers on the basis of the *solenama* decree. A report with a sketch map shall be prepared after such demarcation and handed over to all the parties. All the parties shall be allowed to submit their written version to the said report and adduce oral and documentary evidence in support of their contentions, before the authority.

Thereafter, a reasoned order shall be passed and communicated. If it is found that the alleged road had encroached into any portion of the said land, then necessary steps shall be taken as per Section 44 of the West Bengal Panchayat Act, 1973, if the petitioner and other co-sharers do not consent to such construction. If the allegation of the petitioner is found to be incorrect and demarcation does not indicate that the land on which the construction was being made belonged to the petitioner and the co-sharers, necessary reasons shall be disclosed in the said order. The result of the hearing in either case, shall be intimated to all the parties. Apart from demarcation on the basis of the land records and title deeds etc., no adjudication of title shall be done.

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

Construction in the meantime, shall abide by the final decision of the authority.

The Court has not gone into the merits of the claim of the petitioner and the issues raised shall be decided by the concerned authority, independently.

A copy of the writ petition along with a server copy of this order be served upon the Block Development Officer, TTM Block, Kolkata.

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.)