

May 17, 2024
ARDR (730)

WPA 6138 of 2024

Saraswati Chakraborty & ors.
Vs.
The State of West Bengal & ors.

Adv. Ayan Banerjee,
Adv. Soumo Chowdhury,
...for the petitioners.
Adv. Rohit Das,
Adv. Kishwar Rahman,
Adv. Divya Tekriwal,
Adv. Rishav Mazumder,
...for the respondent no.9.
Adv. Susovan Sengupta,
Adv. Manas Kumar Sadhu,
...for the State.

Affidavit of service filed on behalf of the petitioners is taken on record.

Report in the form of affidavit submitted on behalf of the State respondents is taken on record.

Heard learned counsels for the parties.

The notice issued upon the petitioners under Section 10(1) of the West Bengal Highways Act, 1964 on 1st February, 2024 and a subsequent reminder issued thereto on 23rd February, 2024 are assailed in the writ petition.

The primary grievance of the petitioners is that the notice was issued without demarcation of the portion of the plot in question claimed to be acquired by the State respondents.

The order passed on 9th May, 2024 records that the State respondents submitted before this Court that notice was issued without demarcation of the portion of the plot

in question though the said portion was acquired by the State sometime in 1959-1960.

Learned counsel for the 9th respondent submits that the GAIL has decided to lay the pipe line through the middle of the road without touching upon the plot in dispute.

It is not in dispute that notice under Section 10(1) of the 1964 Act was issued without the portion of plot in question being plot no.220, J.L. No. 41, Mouza Hakimpurgram, L.R. Khatian no. 98 being demarcated by the respondents.

In view of the above, this Court is inclined to hold that since a portion of plot no. 220 has been acquired as submitted on behalf of the State respondents, it was incumbent upon the State respondents to demarcate the acquired portion of the land before coming to a conclusion that such land was encroached upon/illegally occupied by the petitioners.

Accordingly, the notices impugned issued on 1st February, 2024 and 23rd February, 2024 respectively are set aside/quashed.

The Block Land & Land Reforms Officer, Singur, being the 7th respondent herein, is directed to demarcate the acquired portion of the plot in question upon service of notice to all concerned including the petitioners and submit a report to that effect before the 4th respondent within one month from date. Upon receipt of such report, in event encroachment upon Government land or any

portion thereof is found, the 4th respondent shall take necessary steps for removal of the same, in accordance with law.

On prayer of the petitioners, liberty is granted to approach the concerned authority under the Right to Information Act for furnishing relevant documents with regard to the acquisition of the plot in question.

With the aforesaid observations and directions, the writ petition is disposed of.

There shall however, be no order as to costs.

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

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)