

19.06.2024
Ct. No. 14
Sl. No.27
KB

**In The High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 8873 of 2024

**Naimul Haque & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Rudranil De
Mr. Ziaul Haque
Mr. Manish Kumar Das
... For the petitioners.

Mr. Sarwar Jahan
Mr. Naimul Hoque
... For the respondent no.4.

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

The petitioners allege that a school is being
constructed at the behest of the respondent no.7 over
an agricultural plot of land being Plot No. Sabek 602,
Hal 320, J.L. No. 68, Mouza Ghoramara, P.S.
Samshergunj, District- Murshidabad.

The Sabek Plot No.601, Hal 317 was gifted by
the predecessor-in-interest of the petitioner in favour
of the school for construction of the school building.
The building was constructed inadvertently over Plot
No. 602 in place and instead of 601.

Presently taking advantage of the deed of gift in respect of Plot No. 601, fresh construction has been sought to be made by the school authority.

A complaint was lodged before the Officer-in-Charge, Samshergunj Police Station and also before the Chairman, District Primary School Council, Murshidabad and the Sub-Inspector of Schools, Dhuliyan Circle.

As none responded to the complaints lodged, the present writ petition has been filed.

None represents the State respondents.

Learned advocate representing the District Primary School Council submits, upon instruction that, the construction is sought to be made over Plot No. 602.

It has been fairly submitted that if there has been any error on the part of the school in raising construction over a different plot of land, then the petitioners ought not to suffer.

The petitioners categorically submit that they are cultivating the Plot No.602 and the police, at the instance of the school authority, is causing disturbance in cultivation.

The allegation made by the petitioner is required to be enquired into and steps ought to be taken by the proper authority.

The Chairman of the Murshidabad District Primary School Council and the Sub Inspector of Schools, Dhuliyani Circle are directed to consider the grievance raised by the petitioners.

For the purpose of identification of the plot in question, the concerned Block Land & Land Reforms Officer be intimated for causing spot inspection in the presence of the petitioners and the school authority. The representative of the District Primary School Council should be present at the time of spot inspection.

The spot inspection report shall be circulated amongst the parties.

If it appears that the initial construction was made over a plot of land which was not gifted to the school, then necessary steps shall be taken for exchange of the plot which is currently being cultivated by the petitioners with the plot where the school building has been constructed so that the petitioners can enjoy the same.

For ends of justice, the Block Land & Land Reforms Officer, Samshegunj be impleaded as party respondent in the instant writ petition. Let a copy of the writ petition be served upon the added respondent.

Steps shall be taken for spot inspection at the earliest but positively by 5th July, 2024 and report shall be circulated by 12th July, 2024.

A decision shall be taken by the Chairman positively by 2nd of August, 2024 after giving reasonable opportunity of hearing to the necessary parties. A reasoned order shall be passed and communicated to the parties by 14th of August, 2024.

Till a decision is taken by the Chairman of the Council, the police shall ensure that the petitioners are not being restricted/ obstructed by any person whatsoever in cultivating the Plot No. Sabek 602, Hal 320.

The school authority is also restrained from causing any obstruction or resistance to the petitioners in cultivating the Plot No. Sabek 602, Hal 320.

The writ petition stands disposed of.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)