

18.09.2024
A 2214
Ct. No.15
S.A.

**WPA 9813 of 2022
with
CAN 1 of 2023**

**Manija Bibi & Anr.
-vs-
State of West Bengal & Ors.**

Mr. Golam Nur Imrohi
Mr. Md. Sabbir Biswas
...for the petitioners
Mr. Rajarshi Basu
...for the State

Re: CAN 1 of 2023

This is an application for restoration.

Having regard to the averments made in this application for restoration, I am of the view that the petitioners have explained sufficiently the reason for their non-appearance before the Court on February 1, 2023.

Accordingly, **CAN 1 of 2023** stands allowed.

WPA 9813 of 2022 is restored to its original file and number.

Re: WPA 9813 of 2022

In the earlier round of writ petition (WPA 11096 of 2020), the petitioners alleged that respondent nos.10 to 14 have raised an unauthorised construction on a PWD owned road adjacent to the petitioners' property. It was alleged that the said

construction obstructed free ingress from and egress to the petitioners' land.

A Coordinate Bench of this Court by an order dated August 13, 2021, directed the authority to consider the grievance of the writ petitioners in terms of West Bengal Highways Act, 1964.

In compliance with the said order dated August 13, 2021, the Assistant Engineer, Islampur Sub-Division passed an order dated September 29, 2021, after giving due notice of hearing to the all concerned.

From a report filed by the Block Land and Land Reforms Officer, Raninagar-I Block, the Assistant Engineer found that the plot in question lies beside the PWD road and it falls within the area of Murshidabad District Board. The said engineer opined that regarding Murshidabad District Board he has no jurisdiction to issue any proceeding.

After the said order dated September 29, 2021, the writ petitioners made a representation before the President, Murshidabad Zilla Parishad, Berhampore, Murshidabad alleging unauthorized encroachment of the land of Murshidabad District Board by respondent nos.10 to 14.

It is the grievance of the petitioners that despite such representation, no action has been taken on behalf of Murshidabad Zilla Parishad.

I do not find any reason to entertain this writ petition.

The petitioners' earlier allegation was found to be baseless. There is no encroachment of the highway at the behest of respondent nos.10 to 14 as alleged by the writ petitioners.

It appears that only upon taking a queue from the resolution dated September 29, 2021, the writ petitioners have again filed this writ petition alleging inaction on the part of the Murshidabad Zila Parishad.

Whether there has been any encroachment of land owned by Murshidabad Zilla Parishad, cannot be decided in this writ petition. It is for the Murshidabad Zilla Parishad to take steps against respondent nos.10 to 14 for the alleged encroachment of land by filing appropriate proceeding before the competent Civil Court.

No order needs to be passed in this writ petition in absence of a statutory obligation to be discharged by Murshidabad Zilla Parishad.

Accordingly, **WPA 9813 of 2022** is disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties on compliance of usual legal formalities.

(Kausik Chanda, J.)