

WPA 11332 of 2022

**Nirapada Das @ Nirapada Adhikari
Vs.
The State of W.B. & Ors.**

Mr. Sabyasachi Mukhopadhyay
Ms. Kaushikee Banerjee
Ms. Diya Chowdhury ...for the petitioner.

Mr. L. M. Mahata
Mr. Supratim Dhar ...for the State.

Mr. Animesh Paul ...for the private respondents.

Affidavit of service filed by the petitioner is taken on record.

Heard learned counsels for the parties.

The grievance of the petitioner is that the respondents are constructing metal road by encroaching upon a portion of the petitioner's land without acquiring the said portion by due process of law, far less paying any compensation to the petitioner.

The petitioner submitted a representation in this regard before the concerned authority on 19th April, 2022 which is yet to be considered. The petitioner prays for a direction upon the concerned authority to consider the representation at the earliest.

Learned counsel for the State respondents submits that the District Magistrate, being the 2nd respondent

herein, be directed to consider the representation in accordance with law.

Learned counsel for the private respondents submits that the private respondents are co-sharers in respect of the plot in question and since the road is being constructed by the panchayat, the matter ought to be dealt with by the panchayat authorities and not the District Magistrate.

It is further submitted by the private respondents that since the allegation in the writ petition is against the panchayat, the matter falls under Group-V of the Classification List.

In my considered view, as the petitioner alleges that a portion of his land is being utilized by the respondents without acquiring the same by due process of law, the matter needs to be dealt with by the District Magistrate, North 24 Parganas, who may take necessary steps in accordance with law, in connection with utilization of the land as alleged. Though the road may be constructed by the panchayat who may at best be termed as the requiring body, the issue relating to acquisition of the land in question or in the alternative, direct purchase of the same or restoration of the same in favour of the petitioner requires to be considered by the State respondents. The matter therefore, pertains to Group-I of the Classification List and can be dealt with by this Court.

In view of the above, the writ petition is disposed of directing the 2nd respondent to consider and dispose of the

representation submitted by the petitioner dated 19th April, 2022 within three months from the date of communication of this order upon affording reasonable opportunity of hearing to all the interested persons including the petitioner and the private respondents, in accordance with law.

In course of considering the representation, if the authority finds it necessary to hold a joint inspection in order to demarcate the utilized portion of the plot, the authority shall be free to do so.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

There shall, however, be 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 supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)