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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 14926 of 2009

Namita Naskar & Anr.

-Vs-

**Block Development Officer, Diamond Harbour-II &
Ors.**

Mr. Dipankar Dhar,
Mr. Rudra Dhar

... for the petitioners

This writ petition has been filed under Article 226 of the Constitution of India challenging the letter issued under Memo No. 1352 dated 7th August, 2009 by the respondent no. 1 being Block Development Officer, Diamond Harbour-II, Dev Block, 24 Parganas (South).

The brief fact of the petitioners' case in a nutshell is that the predecessor-in-interest of the petitioners namely, Late Nutuberhari Naskar was the owner of land measuring more or less 90 decimal within Dag No. 692 comprising J. L. No. 46, Khaitan No. 215, Mouza-Khoanara, District- 24 Parganas (South) P.S. Diamond Harbour. After his demise, the petitioner no. 1 being the widow and the petitioner no. 2 being the married daughter inherited the aforesaid plot of land. On 14th May, 2009, the petitioners accepted the proposal of respondent no. 5- Wireless TT Info Services Limited and granted them leave and licence to fix and install a tower

of mobile on the aforesaid plot of land. The petitioners obtained “No-objection” from the concerned Gram Panchayat on 26th May, 2009. The respondent no. 5- Wireless TT Info Services Limited also obtained registration certificate for infrastructure Provider Category-I (P I) being No. 168/2007 dated 30.08.2007 from the Government of India, Ministry of Communications & IT, Department of Telecommunications. The respondent no. 5 was also informed that the clearance from Pollution Control Board was not required. While the work of construction was undertaken on the land of the petitioners, the Officer-in-Charge, Ramnagar Police Station, 24 Parganas (South) instructed the respondent no. 5 to stop the work of installation of the tower. Being aggrieved by the action of the State-respondents, the petitioners have filed the present writ petition for setting aside the letter of the respondent no. 1 dated 7th August, 2009.

Mr. Dipankar Dhar, learned advocate for the petitioners submits that the impugned letter dated 7th August, 2009 has been issued on the basis of a report prepared by the “Amin”. The respondent no. 3, Block Land and Land Reforms Officer, Diamond Harbour-II Block, has not made any enquiry for such verification. The process undertaken by the respondent authorities is not in accordance with law and, therefore, the letter

of the respondent no. 1 dated 7th August, 2009 should be set aside.

None appears on behalf of the State-respondents.

It is found from the order dated 18th November, 2009 that it was submitted on behalf of the State-respondents that they intended to submit some documents and consequently, leave was granted. However, till date neither any affidavit-in-opposition nor any documents have been furnished by the State-respondents. Thereafter, by order dated 5th September, 2023, learned advocate-on-record of the petitioners was requested to intimate the learned Government Pleader as well as learned advocate-on-record for the State of West Bengal for ensuring their attendance. On 28th November, 2023, none appeared on behalf of the State-respondents and for such reason, another learned advocate was appointed to represent the State. However, this day also, it is found that State is unrepresented.

From the letter under Memo No. 1352 dated 7th August, 2009 of the respondent no. 1, Block Development Officer, Diamond Harbour-II, Dev Block, 24 Parganas (South), it appears that it has proceeded on the basis of the report submitted by the Block Land and Land Reforms Officer, Diamond Harbour-II Block. It is relevant to note that the Block Land and Land Reforms Officer, Diamond Harbour-II Block, being the respondent no. 3 herein has not submitted any report

rather it has only forwarded the enquiry made by the “Amin”. In the aforesaid backdrop, the letter issued under Memo No. 1352 dated 7th August, 2009 by the respondent no. 1, Block Development Officer, is liable to be set aside, since no report of the Block Land and Land Reforms Officer was placed before it.

Accordingly, the writ petition being **WPA 14926 of 2009** is allowed. The letter issued under Memo No. 1352 dated 7th August, 2009 by the respondent no. 1 is hereby set aside.

It is made clear that the aforesaid letter of respondent no. 1, Block Development Officer, is set aside only on the ground of absence of the report of Block Land and Land Reforms Officer and not on any other grounds.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary legal formalities.

(**Bivas Pattanayak, J.**)