

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 20496 of 2023

Sk. Samir Ali
-versus
The State of West Bengal & Ors.

Mr. Ranjit Kumar Ray
Ms. Ekta Rnjan Shaw ...for the petitioner

Ms. Moushumi Chowdhury
Mr. Kushal Biswas
...for the State

Mr. Suman Basu
Ms. Debanwita Pramanik ... for Hooghly Zilla Parishad

The petitioner complains that the panchayat has utilized his private land for the purpose of construction of panchayat road.

Objection filed against such unauthorized construction is pending consideration.

None represents the gram panchayat.

Learned advocate representing the B.D.O. Singur has obtained instruction from the said officer wherefrom it appears that the road in question was in existence for the last forty years. Due to poor condition of the road the same was taken up for making it concrete.

The instruction forwarded by the B.D.O. mentions that the petitioner purchased the land with existing road in front of it. The instruction further mentions that even if a portion of the petitioner's land was used for making construction of the road,

since no objection was filed by the erstwhile owner of the land, the petitioner does not have a claim to it.

The aforesaid contention of the B.D.O. is absolutely erroneous. The moment the State or even the panchayat utilizes any private land of a private party, the same has to be upon acquisition and upon payment of necessary compensation. Merely because the erstwhile owners of the land in question did not raise any objection does not imply that the private land of a private party will be used by the State authority for public purpose. Moreover, the road is being made concrete presently and, as such, there was no scope on the part of the predecessor-in-interest of the petitioner to raise objection at an earlier date.

As the road is being made concrete at present to be used by the general public, the petitioner will be entitled to compensation provided it is found that private land of the petitioner has been utilized for making construction of the public road.

The District Magistrate, Hooghly is directed to cause a spot inspection to ascertain as to whether the private land of the petitioner has been utilized for construction of public road.

The B.D.O., B.L. & L.R.O., the representative of the gram panchayat shall be present at the time of spot inspection.

The petitioner will be entitled to engage his private amin to remain present at the time of inspection. If it ultimately transpires that any portion of the private land of the petitioner has been utilized for construction of public road then steps shall be taken for acquiring the same in accordance with law and to pay necessary compensation to the petitioner for acquisition of the said portion of land.

The District Magistrate, shall take steps in the matter at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

The writ petition stands disposed of.

Report filed by the B.D.P. Singur Hooghly dated 18.01.2024 be retained with the record.

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

(Amrita Sinha, J.)