

26.09.2024

Item No. 37

Crt.No.02

b.r.

WPA 22567 of 2024

Himangshu Kumar Bera & Ors

-vs-

The Government of West Bengal & Ors.

Mr. Amitava Pain

Mr. P.P. Mukhopadhyay

..... for the petitioners.

Mr. Chandi Charan De, Ld. AGP

Ms. Reshma Chatterjee

.... For the State.

Affidavit of service filed in Court today, is taken on record.

Mr. Amitava Pain, learned advocate, appears for the petitioners.

Mr. Chandi Charan De, Ld. Additional Government Pleader, appears for the State-respondents.

The petitioners submit that the predecessors-in-interest of the petitioners had gifted a portion of the land in favour of the State for construction of a Health Centre. The Health Centre had been constructed and is functioning. Subsequently, on the adjacent land of the petitioners which are beyond the gifted area, the **respondent no.3** has been carrying out further construction for extension of the said Health Centre by encroaching the land of the petitioners. The petitioners submitted its representation dated **December 6, 2023**,

annexure p-5 at page-32 to the writ petition, but the same has not yet been considered.

Learned Additional Government Pleader has denied and disputed the submissions made on behalf of the petitioners.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, the jurisdictional **Block Land and Land Reforms Officer (B.L. & L.R.O.)** upon issuing a notice to the petitioners and the **respondent no.6** shall cause a physical inspection of the alleged portion of land whereupon the petitioners alleged encroachment and then shall demarcate the **gifted land** in accordance with law. The inspection shall be done in presence of the petitioners and the petitioners shall be entitled to be accompanied by an **Amin** to be appointed by them during such inspection. The inspection report then shall be furnished to the petitioners and the **respondent no.6**.

This exercise shall be carried out and completed by the jurisdictional B.L. & L.R.O. positively within a period of **six weeks** from the date of communication of this order.

The B.L. & L.R.O. then submit its inspection and demarcation report before the **respondent no.2**

positively within a period of **two weeks** from the date of the said inspection and demarcation is carried out.

In the event, the report confirms encroachment then the **respondent no.2** either shall release the land free from all encroachment and the **respondent no.6** shall provide all necessary assistance in this regard. Such release of land in that event shall take place within a period of **four weeks** from the date of receipt of the report from the B.L. & L.R.O.

In the event, State opts for **Direct Purchase Policy** then all formalities shall be carried out in accordance with law including payment of the purchase price to the petitioners positively within a further period of **four months** from the date of receiving the report from the B.L. & L.R.O.

It is made clear that this Court has not gone into the merits of the claim of the petitioners and the writ petitioners shall be at liberty to urge whatever points they wish to urge by relying upon and whatever records and documents they wish to rely upon before the jurisdictional B.L. & L.R.O. at the time of physical inspection.

It is made clear that this order shall not create any right or equity in favour of the petitioners, if the petitioners do not succeed to their respective claims before the B.L. & L.R.O. strictly in accordance with law.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 22567 of 2024** stands **disposed of**, without any order as to costs.

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

(Aniruddha Roy, J.)