

05.07.2024
Item No. ml.139
Crt.No.02
b.r.

WPA 23688 of 2023

Sk. Sha Sajauddin & Anr.
-vs-
The State of West Bengal & Ors.

Mr. Syed Nasirul Hossain
Mr. Md. Jalauddin
..... for the petitioners.

Mr. Moniruzzaman
.... For the State.

Mr. Sunil Gupta
Mr. Hasibul Islam
.... For the Resp. no.2.

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

Mr. Syed Nasirul Hossain, learned advocate, appears for the petitioners.

Mr. Moniruzzaman, learned advocate, appears for the State-respondents.

Mr. Sunil Gupta, learned advocate, appears for the respondent no.2.

The rest of the respondents are not represented.

The petitioners complain of construction of an alleged metal road by allegedly encroaching the agricultural land of the petitioners at the behest of the Murshidabad Zilla Parishad.

The petitioners have submitted its representation dated **September 11, 2023, annexure p-4 at page-18**

to the writ petition before the respondent no.4, the same has not yet been considered.

Considering the submissions made on behalf of the parties and considering the materials on record, the following directions are passed:-

- (i) The **respondent no.4** upon issuing a prior notice to the respondent no.2 and the petitioners, through its duly appointed delegatee shall cause a physical inspection of the alleged unauthorized construction of road;
- (ii) The **respondent no.4** then after granting an opportunity of hearing to the petitioners and the respondent no.2 shall dispose of the said representation dated **September 11, 2023, annexure p-4 at page-18** to the writ petition by passing a reasoned order in accordance with law;
- (iii) The respondent no.4 shall be at liberty to take assistance of the jurisdictional **Block Land & Land Revenue Officer (B.L. & L.R.O.)** to consider the relevant land records, if necessary;
- (iv) The entire exercise as directed above shall be carried and completed by the **respondent no.4** within a period of **eight**

weeks from the date of communication of this order. The respondent no.4 shall communicate its reasoned order to the petitioners and respondent no.2 within a further period of **two weeks** from the date of reasoned order to be passed ;

- (v) In the event, the reasoned order confirms the unauthorized construction of road by encroaching petitioners' land from any portion of it as alleged, then the **respondent no.4** shall take all necessary and consequential steps strictly in accordance with law, as the purpose of construction of the public road is for public purpose. Such steps shall be taken expeditiously and without any delay by the appropriate authorities of the State.

It is made clear that this order shall not create any right or equity either in favour of the petitioners or in favour of the respondent no.2 and/or any State authority. Whatever steps will have to be taken, the same shall be taken strictly in accordance with law.

It is also made clear that this Court has not gone into the merits of the rival contentions of the parties and the petitioners and the respondent no.2 shall be at

liberty to urge whatever points they wish to urge before the **respondent no.4** by relying upon whatever records and documents they wish to rely upon.

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 23688 of 2023** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)