

02.01.2024
Item No.26
gd

WPA/299/2022
FAZLUR RAHMAN & ORS.
VS
STATE OF WEST BENGAL & ORS.

Mr. Kunaljit Bhattacharjee,
Mr. Alok Sah
..for the Petitioners.

Mr. Subir Kumar Saha,
Mr. Momenur Rahman
..for the State.

The petitioners claim to be the owners of several plots of land under LR Khatian Nos.22 and 90 within Mouza-Uday Singh, JL No.51 within Police Station-Pradhan Nagar in the District of Darjeeling.

The petitioners claim that some portion of the aforesaid plots of land have been encroached by the respondent no.8, namely, The Assistant Director of Agriculture (Admin) for which a representation was submitted by the petitioners before such authority for demarcation of the lands in question but no decision was taken on such representation.

The learned Advocate appearing for the petitioners draws the attention of the Court to an order dated September 13, 2019 passed by the Hon'ble Division Bench in MAT 23 of 2019 whereby a direction was passed upon the said respondent to consider and take a decision in respect of the petitioners' representation and to communicate such

decision to the petitioners within the time limit indicated in such order.

The learned advocate for the petitioners submits that till date the said respondent has not taken any steps to demarcate the lands in question and taking advantage of that there has been encroachment upon the said plots.

The learned advocate appearing for the State files a bunch of documents including the report of the Block Land and Land Reforms Officer, Matigara, Darjeeling dated May 31, 2018 which is taken on record. He submits that the lands in question have been demarcated and the respondent authority has not encroached upon the land of the petitioners.

Upon a query of the Court as to whether such report was supplied to the petitioners, the learned advocate for the State, in his usual fairness, submits that through inadvertence such report was not supplied to the petitioners. However, in course of hearing of this writ petition a copy of the report dated May 31, 2018 of the Block Land and Land Reforms Officer, Matigara, Darjeeling has been supplied to the learned advocate for the petitioners.

Upon perusing the said report, it appears that as per the field enquiry held on 25th April, 2018 0.72 acres of land of Plot Nos.69 and 67 had been demarcated completely and the possession of those

area was handed over to the Agriculture Department and they have taken the possession by putting the boundary pillars. It further appears from the said report that as per the field enquiry held on May 23, 2018 it has been noted that three plots, namely, Plot Nos.43, 44 and 67/456 are classified as “river” and recorded in Khatian No.1 of the Government Land and since those plots were recorded as Panchanai river, the outer boundaries of those plots have been demarcated by putting boundary pillars and the possession was handed over to the Sub-Divisional Officer, Irrigation Sub-Division. It was further noted that as per the record and as per the field possession, the Block Seed Farm, Salbari or Agriculture Department is not in possession of the said plots of land.

A copy of the demarcation plan has also been appended to the said report.

From the said report it appears to this Court that demarcation of the plots in question have been made.

However, in the event the petitioners are not satisfied with such report, the petitioners will be at liberty to challenge the said report in accordance with law, if so advised.

With the above observation, the writ petition stands disposed of.

There shall be no order as to costs.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the parties on usual formalities.

(HIRANMAY BHATTACHARYYA, J.)