

March 19, 2025
AD 27
Ct. 17
SG

WPA 5436 of 2025

*Jane Alam Shekh @ Jane Alam S.K. and another
vs.
The State of West Bengal and others*

Mr. Golam Mastafa
Mr. T.S. Samanta

... for the petitioners.

Mr. Ashim Kumar Ganguly
Mr. Tarak Karan

... for the State.

Mr. Uttam Kumar Bhattacharyya
... for the respondent Nos.3A & 4.

Mr. Salil Kumar Maity
Ms. Dolan Samanta
... for the respondent Nos.7 - 10.

Learned counsel for the petitioners submits as follows. The private respondents have come up with unauthorised construction on Government land. As the petitioners' complaint went unheard, they were constrained to approach this Court. By an order dated 21.06.2024 passed by a Coordinate Bench of this Court in WPA 11432 of 2024, the respondent No.2 therein was directed to decide petitioners' representation dated 28.03.2024 by passing a speaking order and affording an opportunity of hearing to the petitioners as well as the private respondents. However, the impugned order was passed on 20.01.2025 ex parte by arriving at perverse findings.

Learned counsel for the State denies the allegations and submits as follows. It would be evident from the order dated 19.12.2024 passed in the same proceedings that the learned counsel for the petitioners was heard. The proceedings continued and it does not appear from the date of the final order that any submission was recorded on behalf of any of the parties. The report was perused and a final order was passed.

Learned counsel for the private respondents denies the allegations and submits that as was rightly held in the impugned order that the respondent Nos.6 and 7 were holding plot Nos.194/400 and 194/399 as “Dokan” and “Dalan”, respectively as recorded in the land records. It has been categorically mentioned that there was a small piece of public land which was being used for ingress and egress of the parties and it was in no way affecting the petitioners’ right to ingress and egress to their property.

First, it appears that the submissions of concerned parties were recorded by the concerned District Magistrate on 19.12.2024. In fact, on the date of passing of the final order i.e., on 21.02.2025 no submission was recorded on behalf of any of the parties. The report was perused and a final order was passed. So, it cannot be said that the order was passed ex parte.

Secondly, the District Magistrate came to categorical findings that the respondent Nos.6 and 7 were holding their respective lands and were using a common passage

for ingress and egress. But, they apparently did not come up with illegal construction on Government land.

Thirdly, there is a categorical finding that the ingress and egress to the petitioners were not affecting by this.

Thus, it does not appear that there has been procedural irregularity and the findings arrived at also do not appear to be patently perverse.

In view of the above, I find no reason to interfere with the impugned order.

Accordingly, the writ petition is dismissed without any order, as to costs.

Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Jay Sengupta, J.)