

04.12.2025

**ML-619
Ct. No. 15
Srimanta**

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA/18332/2024

Khokan Sk. @ Rafikul Hasan & Ors.

-Vs.-

The State of West Bengal & Ors.

Md. Salahuddin,
Md. Raziuddin

... for the petitioners.

Mr. Lalit Mohan Mahato,
Mr. Ziaul Haque

...for the State.

The petitioners challenge the orders dated May 20, 2024, and June 7, 2024, passed by the Block Development Officer, Nabagram, Murshidabad. The factual background leading to the impugned orders is as follows:

One Attinul Haque filed WPA/9183/2022, alleging that the petitioners had raised unauthorized construction encroaching upon a public road. The said writ petition was disposed of by a co-ordinate Bench of this Court on January 31, 2023, directing the concerned Gram Panchayat to conduct an inspection, afford an opportunity of hearing to the parties, and take necessary steps in terms of Section 23(5) of the West Bengal Panchayat Act, 1973, or under Section

25(2) if the construction was found to be on a public street.

Thereafter, Attinul filed WPA/24220/2023, alleging that the Panchayat had not conducted the inspection as directed by the Court and, contrary to the order, issued permission dated February 9, 2023, in favor of the petitioners, indicating that the Panchayat had no objection if construction was undertaken over Dag No. 4633.

The said writ petition was disposed of by another co-ordinate Bench of this Court by an order dated March 5, 2024, directing the Block Development Officer, Nabagram Block, to conduct a spot inspection with notice to the necessary parties, including the Panchayat, and thereafter take steps in accordance with the directions passed by this Court on January 31, 2023, in WPA/9183/2022. It was further directed that if it transpired that the construction had been made on a public road, necessary action should be taken in accordance with law.

In compliance with the said order, the Block Development Officer, Nabagram, Murshidabad, passed the impugned order dated May 7, 2024. In his order dated May 24, 2024, the Officer specifically observed that the relevant plot, being Plot No. 4633(CS) in JL-23, Mouza Panchgram, Block Nabagram, District

Murshidabad, belonged to the erstwhile Maharaja of Karimbazar and was classified as 'Nala.' Subsequently, the land was classified as 'Dahar' with easement rights for public use as a pathway. The Officer further found that the petitioners had no ownership rights over the said plot and that the land must be deemed to have vested in the State. Based on the enquiry report, the Block Development Officer concluded that the petitioners had indeed encroached upon the land without any right, title, or interest over the same.

Subsequently, by the order dated June 7, 2024, the Block Development Officer directed the Panchayat authorities to take steps under the provisions of the West Bengal Panchayat Act, 1973, in particular Section 25(2), to initiate proceedings to remove the encroachment and vacate the plot.

Learned counsel appearing for the petitioners sought to challenge the order, contending that the petitioners had been in possession of the plot for a long time and, therefore, should not be evicted.

I find no merit in such a submission. The Block Development Officer has specifically found that the land is recorded as a public pathway in the CS records. Consequently, the petitioners could not have undertaken construction on the plot without any right,

title, or interest. The Block Development Officer has rightly directed the Panchayat Pradhan to invoke Section 25(2) of the West Bengal Panchayat Act, 1973, for removal of the encroachment.

Accordingly, **WPA 18332 of 2024** is dismissed.

(Kausik Chanda, J.)