

22.09.2022
Court No. 19
Item no.23
CP

W.P.A. No. 6574 of 2022
Md. Nur Mahammad Paik & ors.
Vs.
The State of West Bengal & Ors.

Mr. Mukteswar Maity

...for the petitioners.

Mr. Jahar Lal De
Mr. Abdus Salam

...for the State.

Md. Sarwar Jahan
Mr. Sumit Naskar

....for the respondent no. 9.

It is alleged that the Pradhan, Gazipur Gram Panchayat has raised a construction over the lands of the petitioners. The allegation is that the construction is over parts of Dag Nos. 622, 632, 633, 643, 644, 657, 635 and 642 of Mouza – Bansberia.

Mr. Jahan, learned advocate appearing on behalf of the pradhan, submits that the alleged construction is not a project undertaken by the said gram panchayat.

As the petitioners allege that a project has been undertaken by the authorities without their consent and without compensating them, this court is of the view that the issue must be enquired into and decided by the administration.

Under such circumstances, the writ petition is disposed of with a direction upon the Block Development Officer, Kulpi, respondent no. 7 herein, to dispose of the representation of the petitioners, in accordance with law. While disposing of the representation, an inspection of the site shall be made in the presence of the parties, including the concerned pradhan.

Measurements and demarcation of the lands of the petitioners shall be made with the assistance of the Block Land & Land Reforms Officer, Kulpi. The Amin, shall be deployed for such purpose.

On completion of the demarcation, a report with a sketch map shall be prepared and supplied to all parties. Thereafter, necessary orders shall be passed by the Block Development Officer.

If it is found that the construction is not related to any public project under any State authority or government project or scheme, the same shall be mentioned in the reasoned order to be passed. In that event, the petitioner shall be entitled to file a civil suit in respect of such encroachment.

If it is found that the project is a government project and the road has been constructed by the state administration or any other authority under the state as a public project and the lands of the petitioners have been partially utilized, in that event,

the provisions of Section 44 of the West Bengal Panchayat Act, 1973, shall come into operation.

This court has not gone into the merits of the claims.

All the issues raised, shall be decided independently by the authority concerned.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

A copy of the writ petition along with a server copy of this order, be served upon the Block Development Officer, Kulpi, for necessary compliance of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)