



2025:CHC-AS:1845

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

18.03.2025
Ct. no.2
Sl. 5
Moumita

**WPA 23065 of 2024
IA No. CAN 1 of 2024, CAN 2 of 2024**

Suvendu Dubey

Vs.

The State of West Bengal & Ors.

**Mr. B.N. Roy
Ms. Shetparna Roy**

.... For the Petitioner

**Md. Nauroz Rohber
Mohammad Jawnand
Md. Ruhul Amin**

**... For the Intervener
(CAN 1 of 2024)**

**Mr. Chandi Charan De, Ld. Addl. Govt. Pleader
Mr. Anirban Sarkar**

....for the State-Respondents

In Re: CAN 1 of 2024

Md. Nauroz Rohber, learned Advocate appears for the intervener applicant.

Mr. B.N. Roy, learned Advocate along with Ms. Shetparna Roy, learned Advocate appears for the petitioner, opposing this application.

Mr. Chandi Charan De, learned Additional Government Pleader appears for the respondent nos. 1 to 9, the State-respondents in the writ petition.

This interlocutory application has been filed by ten individuals applicants, who claimed to be the villagers of the concerned village. The contention of the applicants is that the portion of a land which they admit to be owned



by the writ petitioner is being used for last more than 50 years as a village pathway for the free movement of the villagers at large. Referring to a registered deed of conveyance dated **August 28, 2002, annexure p-1 at page 10** to the application, the applicants submit that the subject piece of land was purchased by the petitioner and the petitioner knowingly purchased the land that a portion of it is being used for last few decades by the villagers as village pathway. In this regard, he refers to the schedule of the land and the sketch map annexed to the conveyance showing existence of the '*Payehata Kancha Rasta*' as a part of the land.

Through the writ petition the petitioner claims that the villagers are in the process of encroaching the portion of the subject land which is being used as village pathway, the applicants submit if the writ petition is decided in absence of the applicants then the village people at large will suffer including the applicants. Hence, this application seeking addition of parties in the writ petition. Learned Advocate appearing for the applicant submits the petitioner is in the mind of grabbing the said village pathway.

Mr. B.N.Roy, learned Advocate appearing for the petitioner submits that, the land which the applicants claim that the same is the village pathway is a free hold land and has never been used by the villagers as pathway or otherwise. There was no illegality on the part of the



writ petitioner in purchasing the said land. The writ petitioner is the sole and absolute owner of the said land.

Learned Additional Government Pleader also opposes this application and submits that the applicants have no right to maintain this application and they cannot intervene, as the applicants do not have any right, title or interest of the land. He further submits that the state never promulgated any scheme to use the said land as pathway for the villagers.

He further confirms there has been no acquisition or requisition in respect of the said land at any point of time. He further submits that it is a free hold land purchased by the petitioner, so the petitioner is the absolute owner thereof.

After considering the rival contentions of the parties and upon perusal of the materials of record, this Court first proceeds to examine whether the applicants have any right over the subject piece of land. It is to be kept in mind that this is not a public interest litigation. Therefore, unless the applicants establish any right over and above the said portion of land, there is no scope for adding the applicants in this writ proceedings.

The applicants also admit that none of them is the owner of the subject land. The applicants also admit that the petitioner by virtue of a registered deed of conveyance has purchased the subject land. The applicants only claim that the land was being used as a village pathway



for more than 50 years. The applicants also admit that it was a free hold land and there was no illegality on the part of the petitioner in purchasing the same but since the villagers are using the same as village pathway for more than 50 years a right has been created in favour of the applicants.

The fact is that the petitioner has purchased a chunk of land a part of which is being claimed by the applicants as village pathway. The submissions of the parties as recorded above, show that the petitioner has denied and disputed the submissions made by the applicants that the subject portion of the land is being used as village pathway by the villagers at any point of time, for to speaks of for last about 50 years. The application has not disclosed any document to show any right was created in favour of the applicants on the said portion of land claimed to be village pathway.

On the contrary, the record shows that by virtue of registered conveyance, the said portion of land was purchase by the petitioner and there is no challenge to that.

So long the applicants cannot, prima facie, establish any right over the said portion of land alleged to be used by the villagers as village pathway, the applicants cannot maintain this application neither they are required to be heard at all when the writ petition shall be



heard finally. The applicants are neither necessary nor proper parties.

In view of the foregoing reasons and discussions, this court is of the firm view that, the case for intervention in the writ petition by the applicants is devoid of any merit.

Accordingly, this application **CAN 1 of 2024** stands **dismissed**, without any order as to costs.

However, the applicants submit that they have an independent writ petition **WPA 24582 of 2024** touching the same portion of land and challenging the same impugned order, which is impugned in the instant writ petition, the said writ petition of the applicants **WPA 24582 of 2024** shall appear along with the instant writ petition for consolidated consideration by the Court.

In Re: WPA 23065 of 2024

The interlocutory application being **CAN 2 of 2024** has already been directed to appear under the heading '**Application**' on **April 8, 2025**, as submitted by Mr. B.N.Roy, learned Advocate appears for the petitioner, **CAN 2 of 2024** shall appear under the heading '**Application**' on **April 8, 2025** along with **WPA 24582 of 2024**.

(Aniruddha Roy, J.)