

05.01.2024
Item No.3
gd/ssd

WPA/1249/2023
With
CAN 1 of 2023

SRI JAGADISH PRASAD AGARWAL & ORS.
VS
STATE OF WEST BENGAL & ORS.

Mr. Amales Ray,
Ms. Oshmita Mukherjee
..for the petitioners.

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

Mr. Deborshi Dhar
..for Siliguri Municipal Corporation.

Mr. Nabankur Paul,
Mr. Abhishek Sarkar
..for the respondent nos.16, 17 & 18.

Ms. Supriya Singh
..for NHAI.

Mr. Ray, learned counsel for the petitioners draws the attention of the Court to the photographs which have been annexed at pages 120 and 123 of the writ petition. From the said photograph at page 120 it appears that there is a Sign Board which indicates that the site was for "SMC" meaning thereby "Siliguri Municipal Corporation".

Photograph at page 123 shows that the site was for "Government land".

Learned Advocate appearing for the State submits that they have not put up those sign

boards/placard indicating that the site is for Government land.

Mr. Dhar, learned Advocate for the Siliguri Municipal Corporation submits that the sign board which was initially put up by SMC has since been removed and at present there is no sign board indicating that the site is for SMC.

The learned Advocate appearing for the State files a report dated 04.01.2024 of the Officer-in-Charge, SMC area (LR) Siliguri being the respondent no.8 in the writ petition.

Upon perusing the said report it appears that 2.78 acres of land in RS Plot No. 460 within Mouza Mandalaguri was acquired for the purpose of development of regulated market under the Central Government Scheme at Siliguri and an area of about 1.00 acres was acquired vide Notification dated 05.02.1987 for the purpose of widening the National Highway 31. Plot no.460 is a large plot measuring 4.51 acres. Out of the total area of 4.51 acres an area of about 2.78 acres and 1.00 acres i.e. total 3.78 acres appears to be the subject matter of acquisition under different acquisition proceedings.

The petitioners claim that they are the owners of 0.78 acres of land in the plot No.460 and have an apprehension that their property may be encroached upon.

Since only a portion of plot No.460 has been acquired, unless the portion which has been acquired is demarcated, the remaining portion which has not been acquired cannot be ascertained.

In view thereof, this Court is of the considered view that a survey of RS Plot No.460 is to be made by properly demarcating the portions of the said plot which is the subject matter of the aforesaid acquisition proceedings.

Let such demarcation be made under the supervision of the Land Acquisition Collector, Darjeeling being the 5th respondent. The work of demarcation shall be carried out in the presence of the officials of the respondent no.9, Siliguri Regulated Market Committee and respondent no.12 i.e. Siliguri Municipal Corporation.

The SRO-II and Officer in-Charge, Siliguri Municipal Corporation Area (LR) is directed to depute a team of competent Surveyors, Amins and cooperate with the 5th respondent for the purpose of demarcation.

Let such work of demarcation be completed by the 5th respondent within a period of three weeks from the date of receipt of a server copy of this order upon prior notice to the petitioners and the aforesaid respondents.

The interim order passed on July 12, 2023 which was subsequently extended is further extended till the end of February, 2024 or until further orders whichever is earlier.

Needless to mention that the report of the demarcation as well as the sketch map shall be supplied to the petitioners and other respondents.

List this matter after four weeks.

(HIRANMAY BHATTACHARYYA, J.)