

Party Name : JAGABANDHU DAS & ORS Vs REGIONAL MANAGER, SBI & ORS

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA THE HONBLE MR. JUSTICE S.C.DAS

The petitioners by means of this petition have challenged the auction notice which was published in the "*Dainik Sambad*" on 26th July, 2015.

The petitioners allege that the property which is subject matter of that auction notice is actually their property which they had purchased on 29th March, 1966. According to the petitioners, for some reason the mutation of the property could not be entered in their name though they applied for such mutation.

From the auction notice itself it is clear that the land is described to be the property of one Sri Dipankar Majumder, S/o Sri Sunil Chandra Majumder and has been purchased by him vide sale deed Nos.1-2553 and 1-2554 dated 26th May, 2008. Therefore, we have two conflicting versions; first is that the petitioners are the owners of the land and the second version is that the said land is owned by Sri Dipankar Majumder.

In writ jurisdiction this Court cannot decide disputed questions of fact. Whether it is the petitioners who are the owner or Sri Dipankar Majumder who is the owner cannot be decided in these writ proceedings and therefore, we disposed of this writ petition only on the ground that the proper remedy for the petitioners is to file a civil suit for establishment of their right.

We make it clear that if the petitioners file such civil suit it is for the Civil Court to decide whether interim relief should be granted to the petitioners or not.