

S/L. 21.
29.08.2019
MNS

**Calcutta High Court
In The Circuit Bench At Jalpaiguri
Appellate Jurisdiction**

WPA 312 of 2019

**Kalimpong Girls' High/Higher
Secondary School
Vs.
Block Land & Land Reforms
Officer and another**

Mr. Bodhisatta Biswas

...for the petitioner.

Mr. Subir Kumar Saha,
Mr. Bikramaditya Ghosh

...for the respondent no. 1.

Affidavit-of-service filed in court today be
taken on record.

The petitioner and the opposite party no.
1 are represented.

The present challenge is directed against
a notice, purportedly under Section 57 of the
West Bengal Land Reforms Act, 1955 issued by
the Block Land & Land Reforms Officer,
Kalimpong-I.

Learned counsel for the petitioner argues
that the petitioner is a school, which is
extending its school building under the aegis of
the present respondent no. 2, and has
obtained necessary permission from the
authorities concerned for doing so. As such,

the notice dated June 13, 2019, which is impugned herein, is not maintainable at all, in law and facts.

Citing a notification, being Notification No. 4296-LR/1A-05/07GE(M) dated September 17, 2009, learned counsel for the petitioner argues that, as per the said notification, issued as per the order of the Governor by the Commissioner General, Land Reforms and Additional Chief Secretary to the Government of West Bengal, the domain of the Block Land & Land Reforms Officer was restricted to jurisdiction regarding conversion of agricultural land, not exceeding 0.10 acre, for non-agricultural purpose including homestead as well as for commercial and industrial purpose and vice versa.

Placing reliance on the relevant extracts of the entries in the records-of-rights in respect of the property-in-question, learned counsel indicates that the said property is indicated in the records of rights as earmarked for a primary school. As such, it is argued that the same did not pertain to an agricultural land conferring jurisdiction on the Block Land & Land Reforms Officer in any manner whatsoever to issue the impugned notice.

Learned counsel for the respondents submits that the notice was duly issued since there was gross violation of Section 4C of the 1955 Act, which is evident from the notice itself. Although the petitioner might have obtained permission for disposal of the excavated earth, but there was no permission obtained by the petitioner for conversion of the land.

Such contentions are controverted by learned counsel for the petitioner in reply.

A bare perusal of the impugned notice dated June 13, 2019 indicates that the same was issued under Section 57 of the 1955 Act, which merely deals with the powers of the relevant revenue officer akin to a civil court in certain respects. Section 57 of the 1955 Act does not confer any power to issue notice of the sort, as the impugned notice purported to be, in any manner whatsoever.

Moreover, the impugned notice was vague and general in its contents and apparently referred to the plot, on which the construction is going on, being involved in litigation without indicating the nature of such litigation and as to whether the petitioner was a party to such litigation.

It was further indicated in the said notice that it had come to the knowledge of the author of the notice that several commercial and residential complexes had come up at several plots in direct violation of the purpose for which the land was settled upon the trust by the 1955 Act, without indicating whether the plot-in-question was one of those.

Although a bare mention of Section 4C of the said 1955 Act found place in the notice, it was not indicated in any manner as to what exact offence, if any, was committed by the petitioner to attract the issuance of such a coercive notice. As such, the impugned notice cannot stand a moment's scrutiny.

Accordingly, WPA No. 312 of 2019 is allowed, thereby setting aside the impugned notice dated June 13, 2019, annexed as Annexure -P/5 at pages 29 and 29A of the instant writ petition.

It is, however, made clear that the observations made in this order shall not prevent the authorities from issuing a proper notice indicating proper reasons for issuance of such notice in accordance with law, if at all permissible by law, in future in the event of any violation of law by the petitioner.

There will be no order as to costs.

Let photostat certified copies of this order, if applied for, be made available to the parties upon compliance of due formalities.

(Sabyasachi Bhattacharyya, J.)