

14.09.2020
srm

W.P.A. No. 6110 of 2020
CAN 1 of 2020 (Old No. CAN 4366 of 2020)
(Via Video Conference)

Subrata Kumar Dutta
Vs.
The State of West Bengal & Ors.

Mr. Prosenjit Mukherjee,
Ms. Madhurima Sarkar,
...for the Petitioner.

Mr. Jahangir Hossain,
Mr. Saptarshi Chakraborty
...for the Respondent Nos.10 & 11.

Mr. Debjit Mukherjee,
Ms. Rupsha Chakraborty
...for the State.

Despite service none appears on behalf of the Nalhati Municipality although other respondents are present. Affidavit of service is taken on record.

The writ petition is taken up for hearing through video conferencing in view of the urgency.

The application being CAN 1 of 2020 (Old No. CAN 4366 of 2020) is disposed of.

The petitioner claims to be the recorded owner of plot No.1171 measuring about 5 decimals under Mouza-Nalhati, Police Station Nalhati, District-Birbhum. The petitioner claims to be residing on the said plot after constructing his residential house upon obtaining sanction from the Nalhati Municipality. The petitioner states that the premises of the petitioner is adjacent to LR Plot No.1173, which was initially recorded in the

name of Adwitya Das and Kiriti Bhushan Das. Thereafter, the names of the respondent Nos.10 and 11 were recorded in the record of the rights. The petitioner alleges that the heirs of late Kiriti Bhushan Das, namely, Sanatan Das and Bakreshwar Das, who were the owners of plot No.1173, for the benefit of the general public had executed a deed of gift on December 4, 2018 in favour of the Chairman, Nalhati Municipality. According to the petitioner, the said 1 decimal land was recorded in the name of the Chairman, Nalhati Municipality. The petitioner submits that in a clandestine manner the deed of gift was cancelled and the land was sold in favour of the respondent Nos.10 and 11. The petitioner is aggrieved by such action on the part of the municipality in allowing a sanction of a building plan in respect of the area including the said 1 decimal, which was municipal land and over which allegedly a road has been constructed for the general public.

It is also alleged that the said permit was issued with *mala fide* intention after receiving the notice of filing of this writ petition.

The petitioner, thus, prays for an order of injunction restraining the Chairman, Nalhati Municipality and or the official of the said municipality from granting any sanction to the plan submitted by the respondent Nos.10 and 11.

Mr. Hossain, learned Advocate appearing on behalf of the respondent Nos.10 and 11, submits that the plan has already been sanctioned and a permit letter dated August 24, 2020 permitting them to build on plot No.1173 has been issued. The document has been produced before this Court which is taken on record.

It is submitted by the State-respondents that the deed of gift was cancelled by the SDLRO, Rampurhat-I/Appellate Authority under Section 54 of the West Bengal Land Reforms Act.

Under such circumstances, the question of injuncting the Chairman, Nalhati Municipality from sanctioning a plan does not arise. However, the Board of Councillors of the said Municipality under Section 217 has the power to cancel a sanction plan on the ground of misrepresentation and fraud.

If the petitioner applies before the appropriate authorities of the Nalhati Municipality for cancellation of the sanctioned plan in question, the same will be considered in terms of the provisions of West Bengal Municipal Act, 1993 upon hearing the petitioner, the respondent Nos.10 and 11 and all other interested parties.

It is however made clear that this Court has not gone into the merits of the claim and counterclaim of the parties.

It is also made clear that the allegations about cancellation of the alleged deed of gift and consideration thereof is not for the Chairman to decide. If the petitioner is aggrieved by the subsequent cancellation of the deed as alleged, then the petitioner is at liberty to approach the appropriate forum.

The petitioner shall file his application before the appropriate authority of the said Municipality within two weeks from date and upon receipt thereof, the same shall be considered and disposed of upon hearing all interested parties. A reasoned order should be passed and communicated to the petitioner and all interested parties. The entire exercise should be completed within four weeks from receipt of the application of the petitioner.

This writ petition is disposed of.

There will be however no order as to costs.

Urgent certified website copies of this order, if applied for, be delivered to the parties, upon compliance of all necessary formalities. Parties to act on a server copy of this order.

(Shampa Sarkar, J.)