

Court No. 24
08.04.2021
(Item No. 207)
(AB)

W.P.A. 2705 of 2021

Smt. Jharna Jha (Thakur)
Vs
The State of West Bengal & Ors.

Mr. B. N. Ray
Mr. S. Ray

..... for the petitioner

Mr. Ansar Mondal
Ms. Srilekha Bhattacharyya

..... for the State

Mr. Md. Sarwar Jahan
Mr. Debanshu Ghorai

..... For respondent No. 4

Mr. Ramdulal Manna
Mr. Sayan Mukherjee

.... For respondent Nos.16-18, 20-22

The land in question of the petitioner was vested sometimes in the year 1968 and pattas were granted subsequently thereafter over the vested plot of land.

By an order dated 4th April, 2017 the Revenue Officer, under Section 49 of the West Bengal Land Reforms Act and the Sub-Divisional Officer, Malda Sadar held that the pattas issued in respect of the said plot of land are annulled under Section 49(2) of the West Bengal Land Reforms Act, 1955. The Block Land and Land Reforms Officer, Manikchak, Malda was directed to proceed as per rules.

The grievance of the petitioner is that even though the pattas which were granted stood annulled, but the Panchayat has set up a Shisu Siksha Kendra in the said plot of land.

It is the specific case of the petitioner that the Shisu Siksha Kendra could not have been set up on the private land of the petitioner.

The petitioner has also annexed documents to show that construction is being permitted to be made in the said plot of land under the Pradhan Mantri Awas Yojana Scheme.

The petitioner objects to the same. The petitioner prays for a direction upon the respondent authorities to restore actual physical possession of the concerned area by removal and demolition of the construction made so far in the property in question.

The learned advocate appearing on behalf of the Mission Director, Paschim Banga Rajya Shisu Siksha Mission and the private respondents jointly submits that the possession of the said land was given to them long back and they are possessing the same, by making construction thereon, on the basis of the patta which was issued in their favour. It has further been submitted that they have not been intimated about the cancellation of the pattas.

The learned advocate appearing on behalf of the State respondents submits, upon instructions, that after the land was vested a rayati settlement (patta) was granted at different periods of time. One Saheb Nagar Dakshin Para Shisu Siksha Kendra used to run in the garden house in the said plot of land

since 1996. Considering the plot to be vested at that point of time a pucca house and a kitchen was constructed with the financial support of the Paschim Banga Rajya Shisu Siksha Mission. Thereafter pursuant to the orders passed by the Court, proceedings were drawn up and the pattas stood cancelled and the record of rights has been corrected in favour of the petitioner.

It has further been submitted that the Sub-divisional Land and Land Reforms Officer, Sadar Malda took up the case and started proceedings for vesting the concerned plot of land under the provisions of Section 44(2)(a) of the West Bengal Estate Acquisition Act.

The petitioner being aggrieved by the aforesaid proceeding initiated under the West Bengal Estate Acquisition Act filed an original application before the Land Reforms and Tenancy Tribunal being OA case No. 1672 of 2017 which is pending consideration till date.

From the submissions made on behalf of all the parties it appears that though initially patta was granted in respect of the land in question but thereafter the pattas took annulled. Proceedings have been initiated by the State authority for vesting of the land under the provisions of Section 44(2)(a) of the West Bengal Estate Acquisition Act.

The private respondents are in possession of the said plot of land for a considerable period of time on the basis of the pattas granted in their favour. As the proceeding for vesting the land is pending consideration before the learned Tribunal, accordingly, no direction can be passed in the instant matter for demolition of the construction standing thereon or for removal of the occupants of the land in question at this stage. Passing an order in terms of the prayer made by the petitioner for removal of the construction when the proceeding for vesting the land in question is pending consideration, will not be in the interest of justice.

In the event the petitioner succeeds in the original application pending before the learned Land Reforms and Tenancy Tribunal then the petitioner will be entitled to take necessary steps pursuant to the order passed by the learned Land Reforms and Tenancy Tribunal in the pending application.

The writ petition stands disposed of.

The instruction given by the Executive Officer, Manikchak Panchayat Samity is retained with the records.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)