

Sl.no.4
11.11.2021.
Court. No. 19
Sn

WPA 3814 of 2020

Amalendu Kumar Bera & Ors.
Vs.
The State of West Bengal & Ors.
(Through Video Conference)

Mr. SoumenDutta
Mr. Subhadeep Chatterjee ... for the Petitioners

Mr. Wasim Ahmed ..for the State

Mr. Koushik Chatterjee
Mr. Nilanjan Adhikari ..for the respdts.4&5

This writ petition has been filed challenging a purported illegal action on the part of the Contai municipality in constructing a metal road plot no. 247, Mouza Jalalkhanbar, J.L. No. 310, P.S. Contai, District Purba Medinipur.

A report has been filed before this Court by the municipality, indicating that the said road was not constructed by the municipality and no tender to that effect had ever been floated. However, from the records before this Court it appears that the land was recorded as a vested land. The land had vested in the State Government and was originally a Khas mahal land.

The petitioners had filed a civil suit claiming right, title and possession with regard to the said plot of land being Title Suit No. 483 of 1967 in the Court of the learned Munsif, Contai. Suit was decreed. Title

Appeal No. 653 of 1969 was filed by the State Government, which was dismissed.

The petitioners applied for correction of the record of rights before the appropriate authority. The appropriate authority did not correct the record of rights and, thereafter, the petitioners preferred an application before the West Bengal Land Reforms & Tenancy Tribunal. The Tribunal rejected the claim of the petitioners for correction of the record of rights, thereby, holding that once the land vested in the State and was originally a Khas mahal land, the question of declaration of right, title and interest of the petitioners by a civil court did not arise.

The Title Execution Case No. 27 of 2009 for execution of the decree of the civil court was also dismissed.

Aggrieved by the aforementioned order, the petitioners have preferred an application before this Court. A Division Bench of this Court admitted the application but did not pass any interim order in favour of the petitioners nor was any observations made with regard to the claim of the petitioners for correction of record of rights as owners of the plot in question on the basis of the decree of the civil court. The said application is pending. Unless the said application is disposed of, the order of the learned

Tribunal holds good and as such any observation on the right of the petitioners over the said land at this stage may not be proper. However, as the municipality has not taken any responsibility over the road in question, the writ petition does not merit any further consideration.

It is for the Division Bench to decide whether the learned Tribunal was correct in its observation that once the land had vested in the State Government the civil court could not have been approached for declaration of right, title and interest of the petitioners vis-à-vis a vested land.

Under such circumstances, this writ petition is disposed of without any further orders against the municipality as admittedly the road in question has not been constructed by the municipality.

The petitioners shall be at liberty to take such steps as permitted by law in respect of the encroachment by construction of the said road without any reference to the municipality, in view of the specific stand of the municipality.

This order shall not be construed as a declaration of right, title and possession of the petitioners nor as a decision on the observations made by the learned Tribunal in its order.

The writ petition is disposed of.

There will be, however, no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)