

FMA 797 of 2019
With
CAN 1 of 2020

Smt. Golapi Paul & Anr.
-Vs-
State of West Bengal & Ors.

Mr. M. K. Das
Mr. Rasomoy Mondal
Mr. S. Das

... for the Appellants

Mr. Jahar Datta
Mr. Jaladhi Das

... for the State-respondents

Party/Parties is/are represented in the order of their name/names as printed above in the cause title.

A number of issues have criss-crossed during arguments between the parties to this appeal. Although the primary prayers in the writ petition are directed against the Respondents/Buniadpur Municipality, the principal parties to this appeal namely, the appellants and the State-respondents have exchanged arguments principally on the identification of the land in issue in the writ petition.

It transpires from the order impugned in this appeal dated 25th January, 2019 in WP 25444(W) of 2018, that the Hon'ble Single Bench found that the writ petitioners/the present appellants had made false/fraudulent submissions on affidavit with regard to their claims to ownership over the immovable

property in issue.

Thus, the Hon'ble Single Bench felt constrained to initiate a proceeding under Section 340 of the Code of Criminal Procedure against the writ petitioners within a specified period.

Mr. Das, Learned Senior Counsel with Mr. Mondal, Learned Advocate appearing for the present appellants, submit that the order impugned was issued in the absence of Learned Counsel for the writ petitioners/the appellants. Therefore, the writ petitioners/the appellants had no occasion to apprise the Hon'ble Single Bench of the correct state of affairs.

It is strenuously pointed out by Learned Senior Counsel for the appellants that the State-respondents have incorrectly projected the details of the immovable property/the lands in issue and the lands in respect of which the writ petitioners claim ownership are different and distinguishable from the lands which find mention in the Report of the State-respondents, i.e. of the concerned Block Land & Land Reforms Officer.

At this stage of the appeal this Court is of the considered view that in order to preserve a forum for the parties to agitate their grievances, both the writ petitioners/the appellants and the respondents be granted an opportunity to argue the matter afresh before the Hon'ble Single Bench.

The matter stands accordingly remanded before the Hon'ble Single Bench for fresh consideration on affidavits.

For the reasons above, the order impugned dated 25th January, 2019 stands set aside.

However, it is made clear that any other criminal proceeding pending against the appellant no.2 are not interfered with.

FMA 797 of 2019 with **CAN 1 of 2020** stand thus **disposed of**.

All parties to act on a server copy of this order duly obtained from the official website of the Hon'ble High Court, Calcutta.

(Hiranmay Bhattacharyya,J.) (Subrata Talukdar,J.)