

9.
07-12-2021
debajyoti
(Ct. no.06)

FMA 696 of 2021
with
IA NO:CAN/1/2021

Uttam Samanta
Vs.
The State of West Bengal & Ors.

Mr. Sukumar Ghosh,
Ms. Moumita Ghosh

... For the Appellant.

Mr. Pantu Deb Roy, learned A.G.P.,
Mr. Subrata Guha Biswas

... For the State.

By consent of the parties, the appeal and the application are taken up together for hearing.

This appeal is directed against a judgment and order dated February 04, 2021, whereby WPA 19945 of 2019 was dismissed.

The writ petitioner had approached the learned Single Judge challenging an order of the Block Development Officer, Kolaghat Development Block, dated August 13, 2019, by which the petitioner had been directed to choose a different plot of land for construction of house under the Bengal Abas Yojana (R) as otherwise he would be liable to return the amount of Rs.40,000/- which had been paid to him.

The Panchayat authorities submitted that the land that the petitioner had chosen did not stand in his name nor in the name of his father. Civil suits were pending in respect of such land. Hence, the petitioner could not be allowed to make construction on such land. The petitioner was granted liberty to

choose another plot of land. Noting this submission, the learned Judge dismissed the writ application.

We have heard learned counsel for the parties. We do not find any apparent infirmity in the order under appeal. From the material on record, it appears that the land in question is a disputed land and there are rival claims in respect thereof. Litigation is also pending in respect of the land. Hence, no interference is warranted with the order impugned.

However, learned counsel for the appellant says that subsequent to the learned Judge passing the order under appeal, a representation has been made by the appellant to the Block Development Officer, Panskura-II, Kolaghat, Purba Medinipur (page 37 of the stay petition) and the appellant would be happy if such representation is decided at an early date. Learned advocate for the State has no objection to such suggestion.

Accordingly, we direct the respondent no.3, who, we are told, functions as the Block Development Officer, to consider the appellant's representation dated March 10, 2021, in accordance with law and take a reasoned decision thereon within a period of eight weeks from the date of receipt of a copy of this order after giving an opportunity of hearing to the appellant and other interested parties. The decision so taken shall be communicated to the appellant within a week from the date of the decision.

We have not gone into the merits of the case. The respondent no.3 shall take an independent decision in accordance with law uninfluenced by his earlier decision.

The appeal and the application are disposed of.

Affidavits not having been called for, the allegations in the stay application shall be deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)