

23.07.2021
Unlisted
Crt.No.11
K.B.

M.A.T. 694 of 2021
with
I.A. No. CAN 1 of 2021
with
CAN 2 of 2021

Mohammad Badruddoza Rahaman
-vs-
Gour Hari Garain and others.

(Via video conference)

Mr. Balai Lal Sahoo
Mr. Sankha Prasad Ray
... For the appellant.

Mr. Biswabrata Basu Mallick
Mr. Abhishek Prasad
... For the State-respondents.

Mr. S. S. Arefin
...For the Respondent Nos.1 to 5.

This appeal has been mentioned on grounds of urgency and, upon notice to all the parties, it is treated to be on day's list along with its connected applications and hence taken up for consideration on urgent basis.

The urgency cited pertains to the direction by the Hon'ble Single Bench *vide* its order impugned dated 19th February, 2021 in the writ petition being WPA 10401 of 2020.

The Hon'ble Single Bench, upon a detailed discussion, found that a construction has been erected over a plot of land recorded as *Pukur*, i.e. water body. The Hon'ble Single Bench hence directed the concerned State

authorities to demolish the illegal construction and restore the water body.

The demolition has been directed to take place within a period of six months from the date of communication of a copy of the order of the Hon'ble Single Bench. The order is dated 19th February, 2021.

The appellant has arrived in Court with a prayer for urgent hearing in July, 2021. The rationale thus behind the prayer for urgent hearing by the appellant appears to be an argument in self-defeat.

However, next turning to the merits reflected in the order of the Hon'ble Single Bench dated 19th February, 2021(supra), this Court finds that the Hon'ble Single Bench diligently took note of all the steps taken by the concerned Block Land & Land Forms Officer (*BL&LRO*), Illambazar, giving the appellants/who were the private respondents to the writ petition, enough and every opportunity to produce documents in support of their construction over the plot in issue. The Hon'ble Single Bench also recorded that no response was received from the appellants by the *BL&LRO*, Illambazar although, such response was repeatedly sought.

Since no response was received from the appellants, the F.I.R. as recorded in the local Panrui Police Station under Section 4(D) of the West Bengal Land Reforms Act, 1955 as far back as on 18th August, 2020 was proceeded with in accordance with law.

The State-respondents, who are represented today by Mr. Biswabrata Basu Mallick, Learned Counsel, submit that the *BL&LRO* is proceeding to take steps in response to the police complaint. The Hon'ble Single Bench therefore directed that since the appellant is not taking any steps to restore the water body to its earlier status, necessary steps for demolishing the unauthorised construction be taken within the period as specified in the order dated 19th February, 2021.

The writ petitioners/the private respondents to this appeal are represented by Mr. S. S. Arefin, Learned Counsel.

After hearing Mr. Balai Lal Sahoo, Learned Counsel for the appellants and, noticing the detailed discussion on facts as recorded by the order of the Hon'ble Single Bench dated 19th February, 2021, this Court is not persuaded to intervene with the order.

The argument of non-maintainability of the writ petition on the ground of the presence of an alternative jurisdiction before the West Bengal Land and Land Reforms Tenancy Tribunal in view of Section 4(C) and 4(D) of the West Bengal Land Reforms Act, 1955 also does not impress this Court at this juncture since, the facts of this case in the second round of litigation also involve taking action on the F.I.R. as recorded before the Panrui Police Station to its logical conclusion.

The Writ Court also cannot be deprived of jurisdiction since statutory compliance connected to restoration of a water body has been directed by a State Authority such as the *BL&LRO* on the appellant and the appellant has failed to execute such direction over a fairly long period of time despite the order of the Hon'ble Court to such effect .

MAT 694 of 2021 with its connected applications, **being CAN 1 of 2021** and **CAN 2 of 2021** stand accordingly **dismissed**.

There will be no order as to costs.

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

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

(Saugata Bhattacharyya, J.)

(Subrata Talukdar,J.)