

3
Court
No. 11 7.10.2021
G.S.Da
s

MAT 892 of 2021
With
CAN 1 of 2021
CAN 2 of 2021

Sudarshan Midya & Anr.

-Vs-

Narayan Maji & Ors.

(Via Video Conference)

Mr. Pingal Bhattacharyya
Mr. Subhankar Das

... for the appellants

Mr. Mukteswar Maity
Mr. Prabir Ray

... for the respondents

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

Mr Bhattacharyya, Learned Counsel, appears for the appellants.

Under challenge in this appeal is the order of the Hon'ble Single Bench dated 9th of April, 2021.

The Hon'ble Single Bench, *inter alia*, held that the private respondents to the writ petition/the present appellants have made an unauthorised construction obstructing the waterway by the name of *Nasi Khal* under Chaksimulia Gram Panchayat. As a result of the unauthorised construction the water flow carrying vital effluents including sewage from the area, has been blocked.

Although the Gram Panchayat by a resolution

dated 22nd August, 2019 had resolved to demolish the unauthorised construction and the Sub-Divisional Officer (SDO), Tamluk by a further communication dated 6th of September, 2019 requested the Block Development Officer (BDO), Nandakumar to take necessary action to demolish the unauthorised construction, the writ petitioners had submitted before the Hon'ble Single Bench that no action has been taken till date.

The Hon'ble Single Bench directed the concerned BDO to make a field enquiry following which the District Panchayat and Rural Development Officer (*DPRDO*), Purba Medinipur, being the respondent no.4 to the writ petition, was directed to take immediate steps to demolish the unauthorised construction within a period specified in the order.

The concerned respondent, i.e. the *DPRDO*, Purba Medinipur/the respondent no.4 to the writ petition, was also directed to take necessary steps for giving an opportunity of hearing to the parties.

Mr. Bhattacharyya, makes an additional submission that while passing the order impugned dated 9th of April, 2021, the present appellants, who were the respondents before the Hon'ble Single Bench were not heard.

Appearing for the writ petitioners/the private respondents to this appeal, Mr. Maity, Learned

Counsel, relies upon the Affidavit-of-service filed before the Hon'ble Single Bench.

Affidavit-of-service is produced before this Court along with the record of the original writ petition.

From the Affidavit-of-service, this Court finds that the present appellants, being the respondent nos. 9 and 10 to the writ petition, were served by post and confirmation of delivery has been confirmed from the postal track reports attached to the affidavits.

Therefore, the contention of Mr. Bhattacharyya that the order impugned dated the 9th of April, 2021 was passed behind the back of the present appellants/the respondent nos. 9 and 10 to the writ petition is unmeritorious.

Next, this Court notices a Memo dated 2nd of September, 2021 issued by the *DPRDO*, Purba Medinipur produced by Mr. Maity.

From the Memo it transpires that the *DPRDO*, Purba Medinipur held a hearing as directed by the Hon'ble Single Bench *vide* its order dated 9th of April, 2021.

By Order No.4 dated 6th of August, 2021, the *DPRDO*, Purba Medinipur held as follows:

"Notice of hearing was issued to a) Sudarsan Midya, S/o Bishnupada Midya & b) Tapan Midya, s/o Sudarsan Midya to appear for a hearing on 06.08.2021 with all necessary

documents. The notices were duly served and from Haziran it is found that on that day both of them appeared. Both of them submitted written statements which establish the fact that construction was made over a portion of Nasi Khal without taking any permission from the concerned Gram Panchayat.”

From the Order No.4 dated 6th of August, 2021, it is unambiguous that the appellants appeared at the hearing with necessary documents and have not disputed the position that *construction was made over a portion of Nasi Khal without taking any permission from the concerned Gram Panchayat.*

Considering the reports received from the Block Land & Land Reforms Officer (BL&LRO), Nandakumar as well as other official records and documents, the DPRDO concluded that the appellants have made a construction and the same reads as follows:

“From the hearing and official records and submissions received from the parties, it is revealed that Sri Sudarsan Midya, s/o Bishnupada Midya & sri Tapan Midya, s/o Sudarsan Midya have made construction over a portion of Nasi Khal in question without taking due permission from the Appropriate Authority. This portion of the construction as mentioned in the report of Block Land & Land

Reforms Officer, Nandakumar is to be demolished by Sri Sudarsan Midya, s/o Bishnupada & Sri Tapan Midya, s/o Sudarsan Midya within 15 (fifteen) days from the receipt of this order. Failing of which BDO, Nandakumar will take appropriate action with the help of I/C, Nandakumar Police Station in this regard.

The order of the Hon'ble High Court, Calcutta dated 09.04.2021 regarding W.P.A. No. 2848 of 2020 in the matter of Narayan Maji -vs- State of West Bengal & Ors is thus complied with."

Taking judicial notice of all the facts as discussed above, this Court finds no merit in this appeal as well as the connected application.

MAT 892 of 2021 along with **CAN 1 of 2021** and **CAN 2 of 2021** stand thus **dismissed**.

Documents filed in Court today be retained with the record.

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

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Kesang Doma Bhutia, J.) (Subrata Talukdar,J.)