

08.10.2021

Court No.16

rpan / **03**

W.P.L.R.T. No. 44 of 2021

(*via* Video Conferencing)

Farida Begum & Another

- Versus -

The State of West Bengal & Ors.

Mr. Surendra Kumar Sharma

... for the Petitioners.

Mr. A. Ray, Ld. G.P.,

Md. T. M. Siddique,

Mr. N. Chatterjee

... for the State respondents.

Md. Abdul Alim,

Md. Ali Mansoor

... for the respondent no.3.

The present writ petition has been preferred challenging an order dated 22nd September, 2021 passed by the learned West Bengal Land Reforms and Tenancy Tribunal, 4th Bench.

Mr. Sharma, learned advocate appearing for the petitioners submits that the petitioners are the owners of the concerned property and the private respondent no.3 is illegally raising construction over the said property. Such action of the respondent no.3 was interfered with by a coordinate bench of this Court earlier and an order of *status quo* was passed on 23rd June, 2021 for a period of 12 weeks. For extension of such interim order, the petitioners filed applications before the learned tribunal. On 22nd September, 2021, as the original application was

appearing under the heading '*Hearing*', the learned tribunal without considering the contents of the application, being M.A. 794 of 2018 fixed a date for final hearing on 25th January, 2022 granting liberty to the petitioners to file a supplementary affidavit annexing the plaint of the Title Suit No. 7 of 1991. As the hearing has been deferred, the respondent no.3 is proceeding in hot haste to complete a permanent construction over the concerned property and as such the petitioners pray for an interim protection.

Per contra, Mr. Alim, learned advocate appearing for the respondent no.3 submits that no construction was raised by the said respondent for a period of 12 weeks in compliance with the directions contained in the order dated 23rd June, 2021. When the original application appeared before the learned tribunal on 22nd September, 2021, the petitioners themselves prayed for an adjournment and withdrew the other applications preferred praying for interim relief, being M.A. 638 of 2021 and M.A. 639 of 2021.

Mr. Alim contends that upon obtaining necessary permission in terms of Section 5(5) of the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001, on 3rd April, 2009, sanctioned plan for construction was obtained from the competent authority, being the Howrah Municipal Corporation and as such, no interference is called for in the present writ petition.

Mr. Siddique, learned advocate, enters appearance on behalf of the State.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

A perusal of the order impugned reveals that the petitioners themselves prayed for an adjournment before the learned tribunal when the matter was taken up for hearing on 22nd September, 2021. They also withdrew the applications, being M.A. 638 of 2021 and M.A. 639 of 2021.

In the said conspectus, we are not inclined to interfere with the order impugned, moreso when, the matter has been fixed for final hearing on 25th January, 2022.

However, it appears that an interim order of *status quo* was passed by a coordinate bench of this Court earlier. There exists a serious dispute amongst the parties as regards the ownership of the property in question and litigations are continuing since the year 2007.

In view thereof, we make it clear that in the event any construction is raised over the concerned property by the respondent no.3, the same shall abide by the result of the original application, which has been fixed for final hearing on 25th January, 2022. On the basis of such construction, the respondent no.3 shall not claim any

equity and such construction, if any raised, would be at the risk and cost of the respondent no.3.

The learned tribunal is requested to take up the matter for final hearing on the date fixed and dispose of the same as expeditiously as possible, preferably within a period of four weeks from the date as fixed on 25th January, 2021, without granting any unnecessary adjournment to either of the parties,.

With the above observations and directions the writ petition is disposed of.

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

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

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

(Hiranmay Bhattacharyya, J.) (Tapabrata Chakraborty, J.)