

22.11.2021
Court No. 19
Items 7 & 8
CP

WPA 17388 of 2021
with
CAN 1 of 2021
with
CAN 2 of 2021

Rakhal Chandra Saha & ors.
Vs.
State of West Bengal & ors.

with

WPA 17743 of 2021

Manik Chandra Mondal & ors.
Vs.
State of West Bengal & ors.

Mr. Firdous Samim
Ms. Gopa Biswas

.....for the petitioners in WPA 17388/2021
and for the respondents 9 to 15
in WPA 17743/2021.

Mr. P. Ghosh
Mr. Sourav Guha

.....for the petitioners in WPA 17743/2021
and for the respondents 14, 15 & 16
in WPA 17388/ 2021.

Mr. Tapan Kumar Mukherjee, Sr. Advocate
Mr. Pranab Halder
Mr. Somnath Naskar

.....for the State in WPA 17388/ 2021.

Mr. Manas Kundu
Mr. Debabrata Mondal (2)

...for the State in WPA 17743/2021.

Mr. Sudarsan Roy

.....for the municipality in WPA 17388 / 2021.

Mr. Sandip Ghosh

...for the municipality in WPA 17743/2021

WPA 17388 of 2021

There is a conflict of opinions with regard to the character of the land in question. The learned advocate appearing for the North Dum Dum Municipality (hereinafter referred to the municipality), is of the opinion that the same is a water body. The municipality required the petitioners in WPA 17743 of 2021 to restore the water body which the said petitioners failed to do. The petitioners were also given notice to stop illegal activities on such water body. It is submitted by the municipality that the municipality had started restoration of the said pond but due to the pandemic situation, such restoration could not be completed. The municipality prays for some time to complete the restoration work.

On the contrary, the Block Land and Land Reforms Officer has issued an order of conversion by converting the usage of the land to bastu. Thus according to the petitioners in WPA 17743 of 2021, the municipality cannot have any further role to play after such conversion has been permitted. It is further submitted by the petitioners that on the one hand, the municipality has issued a mutation order which is under challenge before this court holding that the land shall be mutated as a water body. On

the other hand, the assessment register has been referred to, from which it appears that the tax has been calculated by treating the said land as a shali land.

It is submitted by the learned advocate for the municipality that such assessment register was only prepared for the purpose of collection of tax and as the land records reveal that the land is a shali land, such classification was incorporated in the assessment register. Although, the municipality submits with conviction and responsibility that the land is a water body and there is a small pond in the area, yet the conversion of the same has been allowed despite the prevailing law restricting filling up of ponds and water bodies.

Learned advocate appearing for the petitioners in WPA 17388 of 2021, submits that it is the executive officer of the concerned municipality who is the competent authority under the West Bengal Inland Fisheries Act, 1984 to monitor, restore and prevent filling up of such ponds. That the report of the municipality would reveal that the competent authority had arrived at a conclusion that the land was a pond and had directed the petitioners in WPA 17743 of 2021 to restore the same.

WPA 17388 of 2021 is disposed of with liberty to the petitioners to challenge the order passed by

the Block Land and Land Reforms Officer allowing conversion, in accordance with law. The petitioners in WPA 17388 of 2021 shall be at liberty to approach the said authority with all the documents and the report of the municipality in support of their contention that the land was always a water body and the order was passed without considering the same. They are also at liberty to challenge the record of rights and pray for correction of the same in accordance with law.

If such challenges are made, the concerned authorities shall act and proceed in accordance with law and dispose of such challenges upon hearing all the parties who are petitioners and respondents in their respective writ petitions as also the competent authority of the municipality.

With the disposal of the WPA 17388 of 2021, connected applications thereto being CAN 1 of 2021 and CAN 2 of 2021 are also disposed of accordingly.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

Photocopy of this judgment and order, duly counter-singed by the Assistant Court Officer, shall be retained with the records of WPA 17743 of 2021.

WPA 17743 of 2021

A challenge has been thrown to the mutation granted by the municipality classifying the land as a water body although in the assessment register the land has been classified as shali land. This matter has to be heard on affidavits as the competent authority of the municipality has come to a specific finding and has submitted a report before this court that the land in question is a pond and was being filled up since 2019 although, the conversion was only allowed in 2021.

This court is of the opinion that till the disposal of the writ petition, status quo shall be maintained with regard to the pond in question.

Let affidavit-in-opposition be filed within four weeks from date. Reply thereto, if any, be filed within two weeks thereafter.

List the writ petition on January 28, 2022 for hearing.

(Shampa Sarkar, J.)