

26.08.2021
Court No. 19
Item no.05
CP

WPA 16509 of 2018

HARAN CHANDRA NASKAR & ORS
VS
STATE OF WEST BENGAL & ORS

(via video conference)

Mr. Supriyo Chattopadhyay
Ms. Saswati Adhikary

.....for the petitioners.

Mr. Himadri Sikhar Chakraborty
Mr. K. M. Hossain

....for the State.

The allegation in the writ petition was that the panchayat authorities had forcefully entered into the lands of the petitioners being L. R. Dag No. 85 in Mouza Kashinagar, J. L. No. 80, Police Station – Bhangor, Khatian Nos. 195, 304, 328 and 351 and has started construction of a dwelling house on behalf of the respondent no.5, who had received funds under the PMAY Scheme.

As the allegation against the panchayat authorities was serious, this court had directed the Block Development Officer to make an inspection and file a report before this court. The Block Development Officer has filed a report, inter alia, stating that the construction is being carried on by Sita Naskar, daughter of late Ratan Naskar and granddaughter of Surya Kanta Naskar on a portion of

land in Dag No. 85 corresponding to Khatian No. 351. It is submitted by the Block Development Officer that the petitioner no. 1 is not the recorded raiyat in respect of the portion of Dag No. 85 of Mouza Kashinagar, J. L. No. 80 corresponding to Khatian No. 351 on which the construction is being made. On the contrary, the grandfather of the respondent no. 5, namely, Surya Kanta Naskar is the recorded raiyat of the portion of the said land Dag No. 85 of Mouza Kashinagar, J. L. No. 80 corresponding to Khatian No. 351. The respondent No. 5 has been constructing a dwelling house upon receiving funds under the PMAY scheme.

The Block Development Officer has annexed the records of rights obtained from the office of the concerned Block Land & Land Reforms Officer which shows that the petitioners are not the recorded raiyats of the land appertaining to Khatian No. 351. The name of the petitioner no. 1 is recorded as a raiyat in respect of Khatian No. 304 and not Khatian No. 351 and the name of the predecessor in interest of the other petitioners, namely, Basudeb Naskar has been recorded in respect of Khatian No. 195. Although it is the contention of the petitioner that Dag No. 85 is an undivided plot, as the primary contention of the petitioner has been proved to be incorrect and no construction has been raised in the

land pertaining to Khatian Nos. 304 and 195 in respect of which the petitioners are the recorded raiyats, the writ petition fails on that score.

Whether the classification of the land has been changed illegally from Bagan to Bastu without proper permission from the appropriate authority shall be decided by the appropriate authority if the petitioners approach the authority in accordance with law.

This court is not making any observation on the allegation of illegal conversion. The petitioners are at liberty to approach the appropriate authority in accordance with the provisions of law. If the petitioners file appropriate application, the same shall be disposed of by the authority concerned in accordance with law upon giving a hearing to the petitioners, respondent no.5, panchayat authorities and also the concerned Block Development Officer.

The fate of the alleged construction shall be decided in an appropriate proceeding only if a finding is arrived at, that the change of user of the land from Bagan to Bastu was illegal and not permitted by law.

The writ petition is, thus, disposed of. There shall be no order as to costs.

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

(Shampa Sarkar, J.)