

04.02.2021
SL No.UL
Court No.24
(P.M.)

WPA 19945 of 2019

**Uttam Samanta
Vs.
The State of West Bengal & Ors.**

Mr. Sukumar Ghosh,
Ms. Riya Ghosh
... for the petitioner

Mr. Pantu Deb Roy, A.G.P.
Mr. Subrata Guha Biswas
... for the State

The petitioner is aggrieved by the order dated 13th August, 2019 passed by the Block Development Officer, Kolaghat Development Block by which the petitioner has been directed to choose another piece of land for construction of the house under the Pradhan Mantri Abas Yojana (R) otherwise he will be liable to return the amount of Rs. 40,000/- which was paid to him, to the Government exchequer, failing which the authority concerned will be at liberty to initiate legal action against him.

It appears from the order dated 13th August, 2019 that the plot in which the petitioner made the construction does not stand in his name. The title of the property is in dispute. The petitioner was well aware of the dispute with regard to the title of the property, but even thereafter applied before the authority for grant of money under the PMAY scheme.

The petitioner filed an earlier writ petition being W.P. 8768 (W) of 2019 wherein an order was passed on 26th

June, 2019 specifically recording the submission of the Panchayet authority that the land on which the petitioner has taken steps to raise construction does not stand recorded in his name or in the name of his father and in the absence of such recording, the petitioner cannot raise such construction.

The petitioner has submitted that a series of litigations are pending in between the petitioner and the other co-sharers of the said plot of land. The Block Development Officer has specifically mentioned in the impugned order that the petitioner applied for registration under the scheme along with Khatian number and documents suppressing the materials fact of the land.

The Block Development Officer was of the opinion that the right and title of the suit property is cloudy and complicated. He further mentions that he was not empowered to go and try the controversial and litigated issue and relegated the parties to the competent court of law.

I am of the opinion that there is no infirmity in the order passed by the Block Development Officer. Admittedly, the petitioner is not the owner of the land in question where he made the construction. The Suit regarding ownership is pending consideration before the Civil Court. Until and unless the petitioner proves his ownership in respect of the land in question, the Block Development Officer is not entitled to release any money in his favour for making

construction of the house under the scheme in the said plot of land.

The petitioner has been given liberty to choose another piece of land for construction. The petitioner will be entitled to act in terms of the order passed by the Block Development Officer.

The writ petition does not call for any interference and the same is accordingly dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)