

14.01.2021

Ct. No. 24

Item No. 40

pk.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA No. 21683 of 2019

Md. Abdul Basar Khan

-vs-

State of West Bengal & Ors.

Mr. Mukteswar Maity for the petitioner

Md. Sarwar Jahan,

Firoze Hassan

for the Paschim Banga Rajya Sishu Siksha Mission

Leave is granted to the petitioner to implead the Mission Director, Paschim Banga Rajya Sishu Siksha Mission as party respondent in the instant writ petition.

The requirement of service of the copy of the writ petition upon the added respondent is dispensed with as the learned advocate has already entered appearance in the matter.

The petitioner's grievance is that the Plot No. 1185, Khatian No. 198, J.L. No. 120 of Mouza Uttar Radhanagar, District South 24-Parganas was gifted to the Panchayet Samity for the purpose of setting up a Sishu Siksha Kendra. The petitioner alleges that the said Sishu Siksha Kendra has not been set up in the plot of land and, accordingly, the petitioner prays for return of the said land in terms of the conditions set out in the deed of gift.

It appears that the petitioner made an application under the Right to Information Act, 2005 with a query as to whether any resolution or permission was given by the Magrahat-II Panchayet Samity for construction of building over the plot in question and whether any Sishu Siksha Kendra in the name of Uttar Radhanagar Muslim Para Sishu Siksha Kendra has been given recognition in the plot in question.

The petitioner is aggrieved by the communication made by the authority under the Right to Information Act. A representation has been made before the District Magistrate praying for a direction that the property cannot be used for any other purposes.

The learned advocate appearing on behalf of the Mission Director, Paschim Banga Rajya Sishu Siksha Mission submits, upon instructions, that the reply to the query of the petitioner under the Right to Information Act clearly mentions that a building was constructed in the aforesaid premises with due permission of the Magrahat Panchayet-II Samity and a Sishu Siksha Kendra under the name of Radhanagar Muslimpara Sishu Siksha Kendra has already been given recognition over the said plot of land.

In reply to the same, the petitioner submits that Radhanagar Muslimpara Sishu Siksha Kendra and Uttar Radhanagar Muslimpara Sishu Siksha Kendra are two

separate institutions and both are supposed to be constructed on separate plots of land.

The petitioner claims that a Title Suit was filed by him in respect of the plot of land which has been decreed in his favour, ex parte.

The deed of gift that has been annexed to the writ petition shows that the gift was made to the Radhanagar Muslimpara Sishu Siksha Kendra.

It appears from the submissions made on behalf of both the parties that there are several disputed questions of facts in the instant writ petition and the same cannot be decided by the writ court under Article 226 of the Constitution.

In view of the above, no relief can be granted to the writ petitioner. The petitioner shall be at liberty to agitate his grievances before the appropriate forum in accordance with law.

WPA 21683 of 2019 is thus disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)