

06.01.2021
(S/L-12)
Ct.-18
(Susanta)

C.O. 4379 of 2019

Shambhu Chandra Das & Anr.
-Vs-
The Board of Trustee for the Port Calcutta

Mr. Ajay Debnath,
Mr. Devranjan Das,
..... For the Petitioners.

Mr. Anirban Ray,
Mr. Somnath Bose,
.... For the Port Trust.

The revisional application under Article 227 of the Constitution of India is directed against the order dated December 10, 2019 passed by the 2nd Court of Learned Additional District Judge, Purba Medinipur at Tamluk in E.A. Appeal No. 01 of 2017.

The petitioners had suffered an order of eviction passed by the Estate Officer under Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

The petitioners aggrieved by the said order of eviction filed the connected appeal.

The Appeal Court has affirmed the order of the Estate Officer.

Mr. Ajay Debnath, learned advocate appearing on behalf of the petitioners vehemently submits that the petitioners on the strength of the land loser's certificate and the certificate issued by the officer of Haldia project are occupying the subject land but the

Estate Officer has passed the order of eviction without considering those documents.

According to Mr. Debnath, the petitioners are not unauthorized occupants as they are entitled to be rehabilitated being the land loser's in Haldia project.

Mr. Anirban Ray, learned Advocate appearing on behalf of the opposite party on the other hand refuting the contentions of Mr. Debnath submits that his client being the ultimate beneficiary of the said land acquisition case whereby and where under the subject land was acquired by the State of West Bengal is not under any obligation to rehabilitate the petitioners in its property. He submits that the petitioners have put up construction on the land admittedly belonging to the opposite party that too without any permission from the opposite party. Therefore, according to him the appeal Court below has not committed any error in affirming the order of eviction.

Heard learned Counsel for the parties, perused the materials on record.

The subject property was acquired by the State of West Bengal and the opposite party is the owner of the said property being the ultimate beneficiary of the said acquisition proceeding.

The occupation of the petitioners over the subject property is without any authority inasmuch as the opposite party never authorized the occupation of the petitioners over the subject property.

The land loser's certificate or the certificate issued by the Officer of Haldia project only signify that the petitioners had lost their land in the L.A. Case no. 1970-71 of Mouja- Hatiberia but the said certificate do not authorize the petitioners to occupy the subject land belonging to the opposite party.

If there is any scheme for rehabilitation of the land loser's in the aforementioned acquisition case it is always open for the petitioners to explore their rights under such scheme in accordance with law but the petitioners are not entitled to set up their alleged rights under such scheme as the defence in the present proceeding under Section 5 of the said Act.

That being the position the argument of Mr. Debnath fails. I do not find any reason to interfere with the order impugned.

C.O. 4379 of 2019 is disposed of with the above terms.

There shall be no order as to costs.

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

(Biswajit Basu, J.)