

WPA 7874 of 2020

Buddieswar Sardar vs. State of West Bengal & Ors.

Mr. Lakshminath Bhattacharya
..For the petitioner.
Mr. Ayan Banerjee,
Mr. Partha Pratim Roy.
..For the respondent.

The petitioner is the recorded owner of 0.02 decimal of land of Dag no. 46 pertaining to Khatian no. 7483 of Mouza Khari, District South 24-Parganas. The landed property lying in the district South 24-Parganas belongs to the State of West Bengal. Since the petitioner is absolutely in distress condition, the Government of West Bengal was pleased to grant Patta i.e. rayati settlement of the above-mentioned landed property to him on condition that the petitioner could not sale the piece of land allotted to him. The Record of Rights was accordingly made as a right under the State and that his name has already been mutated in the Record of Rights as per the Record of Rights at page 26 of the writ petition.

The landed property was the water body though it is recorded as bastu and on the basis of the classification, they were granted Patta but physically some of the said property lying at Dag no.46 under Mouza – Khari was dova. Accordingly, the said portion under the definition of water body as per the West Bengal Inland Fisheries Act, 1984.

The moot allegation as made in this writ

application by the petitioner which lead to invoke the writ jurisdiction of this Hon'ble Court is that all on a sudden in the month of June, 2020, the private respondents who are the members of local registered Club "Shanti Sangha" are making attempt to erect construction of club room over their allotted Government landed property lying under the District – South 24 Parganas without obtaining any permission for filling the said water body from any of the statutory authorities. Immediately, the petitioner has rushed to the said property and obstructed them from filling the water body. Having failed to restrain the private respondents from filling the water body and erect their club room over the Government landed property, a complain was lodged to the local Police Station under G.D.E. No. 829 dated 16.06.2020 and G.D.E. No. 352 dated 07.07.2020. Despite several efforts to stop illegal activities of the private respondents from erecting illegal construction of their club room "Shanti Sangha" over their Government allotted property as per the West Bengal Acquisition of Homestead Land for Agricultural labourers, Artisans and Fishermen Act, 1975, and due to non-action on the part of the respondent authorities, particularly, the private respondents, they completed their construction of the club room "Shanti Sangha" and erected the boundary by filling the water body.

The complaint was made to the District Magistrate, South 24-Parganas, Alipore inviting attention of the authority with regard to the land being encroached upon by the private

respondents over the land which stands allotted to the petitioner. It is claimed that the authority has not taken any action. Therefore, this Court finds an allegation of filling the water body to raise a club house at the land allotted to the petitioner.

Hence, petitioner has sought for issuance of writ of mandamus commanding respondent authorities particularly the respondent nos. 5, 6 and 7 to take necessary steps for demolition the construction made by the private respondents over their Government landed property granted under the West Bengal Acquisition of Homestead land for Agricultural Labourers, Artisans and Fishermen Act, 1975.

Having heard the Counsel appearing for the petitioner and learned counsel for the State respondent, I direct the respondent no. 2, the District Magistrate to consider and dispose of the representation of the petitioner dated 29.08.2020 and to pass a reasoned order within a period of six weeks from the date of communication of this order after giving an opportunity to the petitioner as well as the private respondents and to communicate the reasoned order within a period of one week thereof.

Accordingly, the writ petition being W.P.A. 7874 of 2020 is disposed of.

(Shivakant Prasad, J.)