

15/02/2021
Item No.9.
Court No.38.
AB

Through Video Conference

W.P.A. 9843 of 2020
With
I. A. CAN 1 of 2020

Shyama Prasad Dey Paul & Anr.

Vs

The State of West Bengal & Others

Mr. Anindya Lahiri,
Mr. Arkadipta Sengupta ...for the Petitioners.

Mr. Partha Pratim Roy,
Mr. Ayan Banerjee ...for the State.

Mr. Anupam Kr. Bhattacharya,
Mr. Sukhendu Banerjee,
Mr. Anirban Dey,
Mr. Dilip Kr. Mondal ...for the Respdt. No.10.

Affidavit of service filed in Court today be kept
with the records.

The petitioners claim to be thika tenants in
respect of a particular plot of land. They say that the
land in question is vested in the Government and they
are entitled to be recognized as thika tenants under
the State. They had filed a civil suit being Title Suit
No.7 of 2013 in the Small Causes Court, Sealdah
claiming declaration of status as thika tenants under
the State. By a judgment and order dated August 24,
2015, the said suit was dismissed. The appeal
preferred from such judgment and order being F.A. 8

of 2016 was dismissed by a judgment and order dated April 4, 2019, passed by an Hon'ble Division Bench of this Court. However, the Division Bench left it open for the plaintiffs in that suit (who are the writ petitioners herein) to approach an appropriate forum for the redressal of the plaintiffs' grievances. It is pursuant to such liberty that the petitioners appear to have made an application dated December 24, 2019, to the Additional District Magistrate and District Land & Land Reforms Officer, South 24 Parganas, Kolkata Khas Mahal Section, Government of West Bengal, wherein the petitioners have prayed for an order recognizing them as tenants under the Government.

Mr. Lahiri, learned Advocate appearing for the petitioners submits that all that the petitioners are praying for is an early disposal of the aforesaid application in accordance with law.

Mr. Banerjee appearing for the respondent no.10 submits that his client is the owner of the land in question and that issue has been decided by the Civil Court in the suit referred to hereinabove. He further submits that his client has filed an eviction suit against the writ petitioners, which is pending.

I am not inclined to go into all these questions. The Division Bench had granted liberty to the petitioners to approach an appropriate forum. The

petitioners have approached the Additional District Magistrate and District Land & Land Reforms Officer.

I direct the Additional District Magistrate and District Land & Land Reforms Officer, South 24 Parganas, being the respondent no.7 herein, to consider the application of the petitioners (Annexure P-12 to the writ petition) on an urgent basis and dispose of the same by a reasoned order, in accordance with law, within a period of three months from the date of receipt of a copy of this order along with a copy of the writ petition, after giving full opportunity of hearing to the petitioners, the respondent no.10 and any other concerned parties. All points are left open. The respondent no.10 shall be entitled to urge all points before the respondent no.7 including the point that the respondent no.7 is not the appropriate forum. If such a point of demurer is taken by the respondent no.10, the respondent no.7 will decide such point as a preliminary issue.

I have not decided any point on merits. It will be upto the respondent no.7 to take an informed decision in accordance with law.

Since no affidavit has been called for, the allegations contained in the writ petition are deemed not to be admitted by the respondents.

WPA 9843 of 2020 is, accordingly, disposed of.

In view of disposal of writ petition, CAN 1 of 2020 also stands disposed of.

There will be no order as to costs.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Arijit Banerjee, J.)