

MAT 846 of 2020

With
CAN 1 of 2021

Manik Pal & Anr.
Vs
The State of West Bengal & Ors.

(Via Video Conference)

Mr. Dilip Kumar Sinha

.....for the Appellants

Mr. Raja Saha
Mr. Amit Kumar Ghosh

.....for the State

Party/Parties is/are represented in the order of their name/names as printed above in the cause-title.

By the order impugned dated 7th December, 2020, in the writ petition being W.P. 2023 of 2020, the Hon'ble Single Bench refused to take cognizance of the complaint of the writ petitioners/who are the present appellants as lodged with the Collector, District Purba Medinipur under Section 3 of the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962 (for short the 1962 Act).

The Hon'ble Single Bench was of the view that Section 3 of the 1962 Act left the power of invocation of powers entirely to the Collector with regard to initiation

of steps under the 1962 Act. Therefore, the Hon'ble Single Bench decided not to entertain the writ petition and left it open to the writ petitioners to take recourse to appropriate civil action and/or to lodge a complaint with the police authorities.

Section 3 of the 1962 Act has been placed before this Court. It reads as follows:

“3. Issue of notice to show cause against order for eviction of unauthorised occupant from public land – (1) If, in respect of any public land, the Collector is of opinion, upon application made by an officer of the owner of the public land authorised in this behalf by such owner **or upon information received otherwise (emphasis supplied) , that the public land is in the unauthorised occupation of any person or persons, the Collector shall issue [a notice in such form and containing such particulars as may be prescribed calling upon all person concerned] to show-cause before such date, not being less than fifteen days after the date of the notice, as may specified in the notice why an order under sub-section (1) of section 4 should not be made, and shall cause it to be served in the manner referred to in sub-**

section (2). Intimation of the date so specified shall be given to the owner of the public land and to its officer authorised under this sub-section.

(2) A notice issued under sub-section (1) shall be served by affixing it on a conspicuous part of the public land concerned and in such other manner as may prescribed.

(3) A notice served in the manner referred to in sub-section (2) shall be deemed to have been duly served.”

Having regard to the provision of Section 3(*supra*), this Court is not convinced that the Collector is not entitled to act on the basis of relevant information received from other sources connected to unauthorised occupation of public land. This Court is also not convinced that the invocation of powers under Section 3 is left to the Collector taking action *suo motu*.

In the above view of the matter, the view taken by the Hon’ble Single Bench does not subserve the ends of justice.

The Collector shall now be free to examine the complaint of the writ petitioners/the present appellants on its own merits upon following the procedure as required by the 1962 Act, if necessary by requiring the

petitioners/the present appellants to file a fresh representation incorporating all particulars.

The order impugned stands accordingly set aside.

MAT 846 of 2020 and **CAN 1 of 2021** stand thus **allowed.**

It is expected that the above directed exercise shall be completed not later than a period of eight weeks from the date of receipt of communication of this order.

All parties to act on a server copy of this order downloaded from the official website of this Court.

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

(Kesang Doma Bhutia, J.)

(Subrata Talukdar, J)