

17-03-2021
Court No.2
Sh-26

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

W.P.A. 616 OF 2021

**Shampa Kundu Munshi
Vs.
The State of West Bengal & Ors.**

Mr. Pallav Chatterjee.
.. For the Petitioner.
Mr. Hirak Barman,
Mr. Momenur Rahaman.
...For the State

Affidavit of service furnished by the petitioner today in Court be taken on record.

The instant writ petition is directed against the alleged inaction of the State respondents to part with possession of the subject land to the writ petitioner, who is the successful bidder to the auction/execution of lease process and thereby causing the petitioner to suffer serious prejudice for the unwanted delay being caused.

Indisputably, the writ petitioner was the successful bidder to the auction. There were four bidders to the auction purchase. The writ petitioner emerged out to be the successful bidder in the proposed auction of land. The contention of the writ petitioner is that even after execution of lease, the possession of the proposed land could not be handed over to the writ petitioner and in the process the writ petitioner has already deposited Rs.14,11,490/- for the purpose.

Learned advocate for the writ petitioner adverted to page 27 of the instant writ application, being annexure P-7, submits that Respondent Nos. 4 & 5 in particular have already been vested with appropriate authority in an unfettered manner so that possession of the proposed land could be parted with to writ petitioner.

It appears from annexure P-6 at page 25 of the instant writ petition, which is Memo No.2240 dated 02.09.2020, that at the time of undertaking the exercise with an aim to hand over possession of the subject land, there appeared some discrepancy as regards the area of the land including its feasibility for parting with possession of the subject land.

Upon perusal of annexure P-7 to the writ petition, it appears that as regards the writ petitioner, the concerned respondents have already been directed to take adequate step in context with direction conveyed there, which according to the writ petitioner has not yet been completed resulting in an unwarranted delay and hardship caused to the writ petitioner.

Learned advocate for the respondent nos.2 to 5 proposes for a direction for exchange of affidavit for addressing the issue involved in this case. The grievance raised is very simple and innocuous that even after being a successful bidder to the referred auction purchase of land, the writ petitioner has deposited the sum for the purpose, of possession of the subject land covered by the auction, but the same has not been parted with.

If any direction for exchange of affidavit is given, there is fair chance of causing further delay to the litigation. As such exchange of affidavit appears to be unnecessary exercise in the given circumstances of the case.

Respondents Authority, in particular respondent nos. 4 and 5 are directed to take adequate steps in term of the direction conveyed in Memo No.403-ICE/(12011(99)/13/2020 Mines SEC. dated 1st October, 2020 within two months from the date of communication of this order, so that the grievance of writ petitioner, as raised in this case, is duly redressed to.

With the above directions the instant writ petition stands disposed of.

There will be no order as to costs.

Since no affidavits have been called for, the allegations contained in the writ petitions are deemed not to have been admitted by the respondents.

Photostat Certified copy of this order, if applied for, be supplied to the learned advocates for the parties expeditiously on compliances of all requisite formalities.

(SUBHASIS DASGUPTA, J.)