

OD-3

APO/440/2017
With
WPO/1398/2008

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

STATE OF WEST BENGAL & ANR.
-VS-
BHUWALKA TRADING & TEA CO. (P) LTD. & ORS.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE

The Hon'ble JUSTICE KAUSIK CHANDA

Date : 06th December, 2021.

[Via video conference]

Appearance
Mr. S. N. Mookherjee, Ld. Adv. General,
Md. T. M. Siddiqui, Adv.
Mr. Nilotpal Chatterjee, Adv.
Mr. Paritosh Sinha, Adv.
Mr. Arindam Mandal, Adv.
...for the State/appellant

Mr. Jayanta Kr. Mitra, Sr. Adv.
Ms. Noelle Banerjee, Adv.
Mr. Dipok Dey, Adv.
...for the respondent

The Court : Proceedings and vesting orders passed by the Competent Authority, Calcutta, under the Urban Land (Ceiling & Regulation) Act, 1976, were challenged by the writ petitioners/respondents in WP No.1398 of 2008. A learned Single Bench of this Court allowed the writ application. The operative portion of the order of the learned Single Judge reads as follows:

“So, from what has been discussed above it is clear that the proceeding against the Petitioners, challenged in this Writ Petition and the orders of the Competent Authority passed therein, suffer

from serious illegalities. The proceedings as well as the orders passed at different stages are not, therefore, sustainable in law.

In view of the decisions above the proceeding initiated by the Competent Authority, Kolkata, under ULC Act, in connection with the properties involved in the present Writ Petition and the orders and notifications passed in the proceedings and impugned in this Writ Petition, are all set aside. The Competent Authority will compute the legal entitlement of the Petitioners and excess vacant land, if any, afresh, after following the relevant provisions in ULC Act mentioned hereinabove and other legal provisions as well after an effective inquiry and pass fresh orders after giving the opportunity of hearing to the Petitioners, according to ULC Act and Rules. The Writ Petition is accordingly allowed.”

The aforesaid order is under challenge in the present appeal filed by the State.

In effect, the learned Single Judge remanded the matter back to the Competent Authority keeping all points open for fresh hearing.

Learned advocate for the State, on instruction, submits that the land in question has already vested in the State. However, the State has no objection if the Competent Authority is directed to hold a fresh investigation and pass a fresh order after hearing the parties. However, the land should continue to remain vested in the State till such fresh adjudication by the Competent Authority.

This is acceptable to the writ petitioner/respondent.

Accordingly, without going into the merits of the case, we dispose of this appeal by directing the Competent Authority, Calcutta, under the Urban Land Ceiling Act, to hold fresh proceedings, investigation and inspection and

pass a fresh order in accordance with law after giving an opportunity of hearing to all concerned parties. It must be a reasoned order.

Such exercise should be completed within ten weeks from the date of communication of this order to the Competent Authority.

Needless to say, if the land has vested in the State already, it shall remain vested till a fresh order is passed by the Competent Authority.

We have not gone into the merits of the case and nothing in this order will have any bearing on the proceedings before the Competent Authority.

The appeal is accordingly disposed of.

(ARIJIT BANERJEE, J.)

(KAUSIK CHANDA, J.)