

11.
24-02-2022
debajyoti
(Ct. no.06)

MAT 100 of 2022
with
IA NO:CAN/1/2022
with
CAN/2/2022

Smt. Manorama Biswas
Vs.
The State of West Bengal & Ors.

Mr. M. Goswami,
Mr. P. Goswami

... For the Appellant.

Mr. Chandi Charan De, learned A.G.P.,
Mr. Anirban Sarkar

... For the State.

Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
Ms. Dipanwita Ganguly,
Mr. Kaustav Bhattacharyya

... For the Respondent No.5.

By consent of the parties, the appeal and the applications are taken up together for hearing.

The appellant was not made a party in the writ petition. The appellant prays for leave to appeal against the order of the learned Single Judge dated December 22, 2021, whereby WPA 20395 of 2021 was disposed of. We are of the view that the appellant has reasons to be aggrieved. Hence, we grant her leave to appeal.

The application being CAN 1 of 2022 is, thus, allowed.

The writ petitioner approached the learned Single Judge saying that though one Satish Chandra

Biswas was recorded as allottee of LOP-79 by the Refugee Relief and Rehabilitation Department, Government of West Bengal, the free-hold title deed in respect of the said plot was executed in favour of one Manorama Biswas by mistake. Manorama Biswas is the present appellant. The writ petitioner claimed to be the attorney holder of the legal heirs of Satish Chandra Biswas.

The writ petitioner submitted before the learned Single Judge that he had made a representation before the concerned authority for correction of the mistake indicated above. Such representation has not been disposed of.

The learned Judge disposed of the writ petition by directing the concerned authority (second respondent in the writ petition being the District Rehabilitation Officer) to consider and dispose of the writ petitioner's representation dated November 26, 2021 within two months after affording reasonable opportunity of hearing to all the interested parties including the petitioner, in accordance with law.

The appellant says that she was deliberately not added as a party in the writ petition. The appellant had filed a writ petition being WPA 14239 of 2021 wherein the present writ petitioner was a party. Such writ petition was disposed of by an order dated September 21, 2021.

We have gone through that order. There appears to be longstanding civil disputes between the present writ petitioner and the present appellant in respect of the concerned plot of land. Both the parties have filed suits. The present writ petitioner filed a suit for

declaration and injunction which was dismissed by the learned first Court. The First Appeal was dismissed. The writ petitioner's Second Appeal is pending in this Court being SAT 421 of 2019. The appellant filed an eviction suit against a third party and obtained a decree of eviction in respect of the plot in question. He has put such decree in execution. The writ petitioner who claims to be in possession of the concerned land is contesting such execution proceedings.

In view of the aforesaid facts, we are of the opinion that the said facts ought to have been placed before the learned Single Judge. In all fairness, the present appellant should have been made party respondent in the writ petition.

Accordingly, we set aside the order impugned in this appeal without going into the merits of the matter and remand the matter to the learned Single Judge having determination to hear the writ petition afresh. Any action taken on the basis of the order impugned is also set aside. The writ petitioner shall add the present appellant as a party respondent within seven days from date and serve a copy of the writ petition on the added respondent.

The learned Judge is requested to decide the matter after the present appellant is added as a respondent in the writ petition.

With the above observations, MAT 100 of 2022 and CAN 2 of 2022 are disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)