

Court No. 24
30.03.2022
(Item No. 203)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 1344 of 2020
With
CAN 1 of 2021

Kakoli Sarkar
VS
Indian Oil Corporation Limited & Ors.

Mr. Amal Baran Chatterjee, Sr.Adv.
Mr. Ibrahim Shaikh
Ms. Benazir Shaikh
..... for the petitioners
Mr. Susanta Pal
Mr. Prabir Kumar Ray
..... For the State
Mr. Puspendu Chakraborty
..... for IOCL

The reasoned order dated 26th December, 2019 passed by DGM (LPG-Sales)/DAO Indian Oil Corporation Limited (MD) is under challenge in the present writ application.

The entire issue arises out of a public advertisement which was published by the Indian Oil Corporation Limited (IOCL) for appointment of LPG distributorship in different places of West Bengal.

The petitioner and the private respondent No.14, Dipanwita Sarkar both participated in response to the said advertisement. A draw of lots was held and the private respondent appeared to be successful in the said draw.

The petitioner is aggrieved by the act on the part of IOCL in accepting the land offered by the private respondent.

According to the petitioner, the land which was offered by the private respondent does not have a perfect title. The document of the land i.e, the lease deed relied upon by the private respondent in respect of the land in question appears to be defective and doubtful.

The land in question which was offered by the private respondent originally belonged to one Sambhu Nath Chakraborty who permitted one Biswanath Chakraborty to remain in possession of the same. The fact of Biswanath Chakraborty having permissive possession over the land in question is evident from the record of rights prepared by the Land Department of the Government of West Bengal annexed as Annexure P-5 to the writ application. Be it recorded that the owner Sambhu Nath Chakraborty and the permissive possessor Biswanath Chakraborty were brothers.

On expiry of the said Sambhu Nath Chakraborty his heirs sold the land to one Madan Karmakar in the year 1997. The aforesaid purchaser of the land Madan Karmakar in the year 2017 executed a deed of lease in favour of the private respondent herein. The private respondent relying upon the said deed of lease offered the land for obtaining the LPG distributorship.

According to the petitioner the heirs of Biswanath Chakraborty are still in possession of the land in question and in support of the said contention the petitioner has relied upon a certificate issued by the Pradhan of the Gram Panchayat on 29th November, 2021 wherein it has been

mentioned that Biswanath Chakraborty expired leaving behind four heirs and legal representatives.

According to the petitioner, as permissive possession of the land in question still remains with the heirs of the deceased Biswanath Chakraborty, accordingly, the said land cannot be offered by the private respondent who appears to be a lessee of the said land.

None appears on behalf of the private respondent despite service.

Learned advocate representing IOCL submits that the representatives of the Company visited the locale and found the land to be a vacant one and apart from the private respondent nobody else was in possession of the said land.

According to IOCL there is no dispute with regard to the land that has been offered by the private respondent and as such Letter of Intent has been issued in favour of the private respondent.

It appears from the submissions made on behalf of both the parties that the land in question recorded in the name of Sambhu Nath Chakraborty was sold after his death by his heirs in favour of Madan Karmakar in the year 1997. Thereafter a lease deed was executed by the said Madan Karmakar in favour of the private respondent herein, Dipanwita Sarkar, in the year 2017.

On perusal of the heirship certificate dated 29th November, 2021 issued by the Pradhan of the Gram Panchayat it appears that the date of death of Biswanath

Chakraborty is not mentioned. It has been submitted in Court that the said Biswanath Chakraborty expired nearly thirty years back. The names of the heirs of deceased Biswanath Chakraborty though have been mentioned therein but none of the heirs are alive. All the heirs of the deceased Biswanath Chakraborty, as mentioned in the said heirship certificate issued by the Pradhan of the Gram Panchayat, are dead. The petitioner has failed to produce any evidence about any surviving heir of the permissive possessor aggrieved by the successive transfers of the said land. The same implies that there is no objection from the side of the alleged heirs of late Biswanath Chakraborty with regard to the transfers.

None of the heirs of the deceased Biswanath Chakraborty has raised any issue with regard to the possession of the land in question. It is the petitioner, an absolute stranger to the land in question, who is raising the issue with regard to doubtful title. In the absence of any objection raised by any of the heirs of the deceased permissive possessor, it is not open for a third party to raise a dispute with regard to the title or possession of the land in question.

There does not appear to be any defect in the document relied upon by the private respondent at the time of offering the land in question. The petitioner has also not been able to produce any document to show that the heirs of the permissive possessor ever raised any objection with regard to the transfer of the land in question

by the heirs of Sambhu Nath Chakraborty to Madan Karmakar or thereafter to Dipanwita Sarkar.

The reasoned order which is under challenge in the present writ application has clearly dealt with, in details, the issue raised by the petitioner. The Court does not find any error in the said reasoning.

In view of the above, no relief can be granted to the petitioner in the instant case.

The writ petition along with the application being CAN 1 of 2021 fails and is hereby dismissed.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)