

03.01.2022
Court No. 19
Item no.08
CP

WPA 3829 of 2021

Mrityunjoy Kar
Vs.
The State of West Bengal & ors.

Mr. Sukanta Das

.....for the petitioner.

Mr. Supratim Dhar
Mr. S. Bhattacharjee

....for the respondent no.3.

Mr. Z. Haque

....for the respondents 9 & 10.

Ms. Jayeeta Sinha
Mr. Ranjit Rajak

....for the State respondents.

It appears that the Block Land and Land Reforms Officer, Chandrakona – I, Paschim Medinipur has already come to a finding that the construction allegedly made by Sambhunath Dey and Nityananda Dey on a portion of Plot No. 3373 pertaining to Mouza: Ramjibanpur, J.L. No. 16 was unauthorized, as no conversion of the said plot from ‘Doba’ to ‘Bastu’ had been allowed by the Block Land and Land Reforms Officer. Proceedings under Section 4D has also been initiated by issuance of a show cause notice upon the said respondents.

Mr. Dhar, learned advocate appearing on behalf of the Ramjibanpur Municipality (hereinafter referred to as the municipality), submits that the existing plot has been wrongly recorded as 'Doba' and a house was standing thereon prior to the present construction under the PMAY scheme. Accordingly, the municipal records have also been produced which shows that the plot has been assessed with respect to the payment of property tax. According to him, had the plot been a 'Doba', such assessment would not have been made by the municipality. Mr. Dhar further submits that in the event a change of user of land had been effected by efflux of time, the amendment under the West Bengal Land Reforms Act in 2017 permitted post facto approval to such conversion. According to him, when the municipal records reveal that the plot has been assessed as a holding for the purpose of payment of property tax, the land revenue authorities ought to have granted post facto approval to such conversion.

Mr. Haque, learned advocate appearing on behalf of respondents 9 and 10, submits the record of rights in order to establish the fact that the plot concerned is not a 'Doba'. Mr. Haque has failed to show that the plots are 'Bastu' land.

Permission by the municipal authorities is before this court. It is also not for the municipality to

decide whether the plot is a 'Doba' or a 'Bastu' and the court is also not convinced as to how the municipality could allow further construction under the 'Housing for All' Scheme when the controversy has been raised in respect of the land and the Block Land and Land Reforms Officer has already issued a notice to the municipality to take action in terms of Section 17A of the West Bengal Inland Fisheries Act, 1984 for restoration of the land. Records also reveal that the said Sambhunath Dey by a letter which is at page 59 of the writ petition had intimated the Block Land and Land Reforms Officer that the construction was made on a plot which was a 'Doba' by mistake. According to the record of rights the classification had not been changed to 'Bastu'.

Mr. Dhar submits that pursuant to the notice dated December 2, 2021 issued the BL&LRO, the municipal authorities have replied to the official with all the municipal records, by a letter dated December 29, 2021.

As the Block Land and Land Reforms Officer has already initiated proceedings under Section 4D of the West Bengal Land Reforms Act, 1955, the writ petition is disposed of with a direction upon the Block Land and Land Reforms Officer to conclude the proceedings upon hearing the petitioner, respondents 9 and 10 and also the competent authority of the

municipality. A reasoned order with regard to the nature of the land and as to whether the construction has been made on a 'Doba' shall be passed and communicated to all. Whether the construction can be granted post facto approval shall also be decided. On the basis of the findings of the BL&LRO, steps shall be taken by the concerned municipal authorities. Records of the municipality shall also to be looked into by the Block Land and Land Reforms Officer before coming to the conclusion as to whether the construction under the 'Housing for All' Scheme was done illegally and on a 'Doba'.

The entire exercise shall be completed within a period of three months from the date of communication of this order.

It is made categorically clear that no further construction shall be made in view of the specific finding of the Block Land and Land Reforms Officer, that the construction is on a 'Doba' and also in view of the specific intimation given by the said officer to the Executive Officer, Ramjibonpur Municipality.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)