

31.10.2022
Sl. No.72(DL)
srm

W.P.A. No. 4269 of 2022

Khaliluddin Mia & Ors.

Vs.

The State of West Bengal & ors.

Mr. G.F. Hossain,
Ms. Priyanka Mandal

....for the Petitioners.

Mr. Ansar Mondal,
Mrs. Srilekha Bhattacharyya

...for the State-respondents.

Affidavit of service is taken on record.

According to the petitioners, the order of vesting of the concerned non-agricultural lands had been set aside in a civil suit.

It is submitted that the right, title and interest of the petitioners in respect of the plot (tank fishery) was declared by the learned civil court and the State of West Bengal was permanently enjoined from disturbing the peaceful possession of the petitioners in respect of the said plot. It is submitted that even in the appeal the state respondents were unsuccessful. The appeal had abated, and no steps had been taken. Reliance has been placed on the judgment of the learned civil court in support of the contention that the civil court had found on evidence that the plot was allegedly a tank fishery and used for

pisciculture. Contrary evidence could not be adduced by the state. The factum of the possession of petitioner was also decided by the civil court.

The petitioners approached the authorities for correction of the record of rights as the land continued to be recorded in the name of the State under khatian No.1. The authorities did not take any steps and the petitioners filed an original application before the West Bengal Land Reforms and Tenancy Tribunal. It appears that the Block Land and Land Reforms Officer, Gangarampur, Dakshin Dinajpur, was directed to dispose of the representation of the petitioners in accordance with law, upon hearing all the parties. The specific stand of the State-respondents before the learned Tribunal was that the judgment and decree was void *ab initio* in view of the specific bar of the jurisdiction of a civil court on the subject of vesting.

The petitioners now allege that until the Block Land and Land Reforms Officer decides on the representation filed by the petitioners with regard to the correction of record of rights, the panchayat authorities should not hold any auction for grant of lease of the suit plot which is a pond/tank.

There is nothing on record which would indicate that the panchayat authorities have taken any steps to hold

a public auction. Cause of action to file a writ petition has not arisen. The writ petition is based on apprehension. No restraint order can be passed by this Court. The petitioners have approached the Pradhan of 11 No. Ashokgram Pram Panchayat, District-Dakshin Dinajpur, in this regard.

The Block Development Officer, Gangarampur, Dakshin Dinajpur is directed to dispose of the representation of the petitioners made through their learned Advocate dated December 18, 2021 in accordance with law upon hearing the petitioners and all other interested parties. A reasoned order shall be passed and communicated to all.

It is made clear that the petitioners shall take expeditious steps for a decision by the Block Land and Land Reforms Officer with regard to the disposal of the pending representation.

This Court has not gone into the merits of the allegations.

This order shall also not be constructed as a declaration or an opinion of the Court on the right of the petitioners or on the correctness of the decree passed by the learned civil court.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)