

08.08.2022
Court No. 19
Item no.393 (ML)
CP

W.P.A. No. 12147 of 2021

Kirttibas Baidya
Vs.
The State of West Bengal & ors.

Mr. Sarbananda Sanyal
Ms. Poulami Chakraborty
...for the petitioner.

Mr. Srijan Nayak
Mrs. Rituparna Maitra
...for the State.

Mr. Sounak Bhattacharya
Mr. Sounak Mandal
....for the respondent nos. 5 & 6.

Affidavit of service is taken on record.

The petitioner claims to be a bargadar in respect of Dag Nos. 444, 445 and 446, pertaining to Khatian No. 991, 992 and 535 in Mouza – Kanksa. The petitioner alleges that the respondent nos. 5 and 6 have tried to evict the petitioner from the plots in question. Accordingly, a complaint was filed before the police authorities on January 21, 2016. It also appears that the respondent nos. 5 and 6 filed an application before the West Bengal Land Reforms Tenancy Tribunal and the Tribunal directed the Block Land & Land Reforms Officer, Kultali to take a decision. The Block Land & Land Reforms Officer passed an order on January 4, 2017, indicating that

the relevant papers and documents revealed that the petitioner had been cultivating on the said lands for the past 30 years, since the death of Satish Ch. Baidya. The order also records that the petitioner used to give his due share of the produce to the erstwhile owners. The cultivation was stopped due to disputes between the petitioner and the respondent nos. 5 and 6 (subsequent purchasers). It also appears that the A.D.M. & D.L.L.R.O, South 24 Parganas, directed demarcation of the lands over which the disputes have arisen. It is submitted that the orders of BL&LRO has been appealed against. It also appears that the Block Land & Land Reforms Officer, Kultali also requested for police assistance in order to carry out demarcation. It appears that the said demarcation was held on February 1, 2018. A sketch map has been annexed for the information of the police authorities.

Under such circumstances, the petitioner prays that an order be passed by this court, permitting the petitioner to cultivate the demarcated portion of the lands, with police assistance.

Mr. Bhattacharya, learned advocate appearing for the respondent nos. 5 and 6, submits that the order of the Block Land & Land Reforms Officer is under challenge before the appellate authority.

The police enquiry revealed that the dispute lies with regard to the ownership of the land. The petitioner and his father were the recorded bargadars. Later, the father of the petitioner purchased the land from Kartik Chandra Baidya and became the owner. On the other hand, Parimal Baidya and Nirmal Baidya also claimed to have purchased the land from Sudarshan Gayen and Ananda Sardar of Mograhat and Sudarshan Gayen claimed to have purchased the land from Kartik Chandra Baidya, i.e., the same person from whom the petitioner's father allegedly purchased the said lands. The police report is taken on record.

Anticipating breach of peace, prosecution under Sections 107/116(c) of the Cr.P.C. had been submitted against Parimal Baidya and Nirmal Baidya.

Having considered the dispute as enumerated by the police authorities, and having found that the Block Land & Land Reforms Officer did not pass any order with regard to permission to the petitioner to cultivate on the said lands, this court is of the view that the petitioner would have to approach the Block Land & Land Reforms Officer or the appropriate forum for assertion of his rights of cultivation as the police enquiry reveals that the father of the petitioner, who was a bargadar, later on claimed to

be the owner of the said land by purchase from one Kartik Chandra Baidya, who also appears to be the common vendor with regard to the sale of the said land to the respondent nos. 5 & 6. The writ court cannot go beyond the police report.

Under such circumstances, apart from the directions upon the police authorities to ensure that peace and tranquility is maintained by and between the parties, no further order cannot be passed in this writ petition.

The writ petition is accordingly disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)