

19.07.2022
Court No. 19
Item no.137
CP

W.P.A. No. 11801 of 2022

Contai Co operative Bank Limited & anr.

Vs.

The State of West Bengal & ors.

Mr. Ritwik Pattanayak

Ms. Cardina Roy

....for the petitioners.

Mr. S.P. Pahari

Mr. Tapan Kr. Mahapatra

...for the respondent no. 8.

Mr. Pradip Kumar Roy

Mr. Biplab Das

Mr. Ankit Sureka

....for the respondent no. 5.

Mr. Srijan Nayak

Ms. Rituparna Maitra

...for the State.

Despite service, none appears on behalf of the respondent no. 7.

The petitioner no. 1 is a cooperative bank and the petitioner no. 2 is the branch manager of the concerned bank. The allegation is that the Department of Fisheries, Government of West Bengal had failed to pass necessary orders permitting the change of ownership of the fishing boat in respect of the respondent no. 7.

The respondent no. 8 was a defaulter. The fishing boat was hypothecated to the cooperative bank. The fishing boat was sold in an auction to the respondent no. 7 and thereafter, the cooperative bank requested the concerned department for recording the change of ownership in favour of the auction purchaser. Documents have been referred by the petitioner, in order to show that the queries which were made by the Assistant Director of Fisheries, Marine, Contai, Purba Medinipur, have been satisfactorily answered by the cooperative bank. Even then, the said authorities have sat tight over the matter.

It is submitted by Mr. Pahari, learned advocate appearing for the respondent no. 8, that the fishing boat was not sold in a public auction. The bank had entered into an underhand dealing with the respondent No.7. The value of the fishing boat had not been assessed. A writ petition has been filed before this court challenging the aforementioned sale.

Admittedly, the sale has not been set aside and the defaulter member has also not offered to pay up the dues. Rather, the sale has been confirmed and sale certificate has been issued.

Under such circumstances, the court is unable to understand why the Department of Fisheries has not

taken steps for change of ownership, even if a proceeding is pending before the learned court.

The change of ownership shall at best be subject to any orders that may be passed by the competent court. It appears to the court that the Assistant Director of Fisheries, Marine, Contai, Purba Medinipur, had asked the same questions over and over again. However, as the issue cannot be decided by the writ court in the absence of documents and because of the factual disputes, the Director of Fisheries, Fisheries Department, Government of West Bengal is directed to treat the writ petition as a representation and take a decision upon hearing all the interested parties including the respondent nos. 7 and 8.

A reasoned order shall be passed and communicated to the parties.

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

The writ petition is disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)