

53,54,55
03.03.2022.
Mb

CPAN 698 of 2021
in
WPA No. 8333 of 2020

Dibakar Rana
-vs.-
Sourav China & Ors.
With
RVW 91 of 2021
+
IA No. C.A.N. 1 of 2021
+
C.A.N. 2 of 2021

Jagannath Rana
Vs.
Dibakar Rana & Ors.

Mr. Pankaj Halder,
Mr. Sanatan Panja
...for the review applicant

Mr. Arnab Saha,
Mr. Abhimanyu Banerjee
...opposite party/writ petitioner

In Re.: RVW 91 of 2021

Affidavit-in-opposition filed by the writ petitioner/opposite party in the present review application be kept on record.

Learned counsel appearing for the review applicant submits that in the order sought to be reviewed, this Court had passed a direction on the relevant law enforcement authorities to remove any hindrance from the present review applicant in respect of the writ petitioner making constructions pursuant to

a sanction obtained under the Pradhan Mantri Awas Yojana in respect of plot nos. 373 and 440.

It is contended, however, that the writ petitioner had not filed any application for sanction under the said Scheme at all. Although the wife of the writ petitioner filed an application, the same was in respect of sanction for plot nos. 378, 379 and 380, which have no nexus with plot nos. 373 and 440. In the absence of any document to establish that the writ petitioner had any sanction for raising construction on plot nos. 373 and 440, it is submitted that the order dated March 05, 2021 ought to be reviewed.

Learned counsel appearing for the review applicant further explains that the review application ought to be allowed on the ground of discovery of new materials, since the above relevant information, as indicated herein, was obtained only upon making an application under the Right to Information Act before the appropriate authorities, subsequent to the disposal of the writ petition, bearing W.P.A No. 8333 of 2020, on March 05, 2021.

However, learned counsel appearing for the opposite party in the review application, who was also the writ petitioner, submits that the writ petitioner is the actual owner of plot nos. 373 and 440.

Learned counsel contends that the writ petitioner also has a deed of transfer in his favour to indicate that plot no. 373 belongs to the writ petitioner. As far as

plot no. 440 is concerned, learned counsel contends that the said plot has ancestrally devolved on the writ petitioner. Although a partition suit is pending in respect of other plots, where the writ petitioner is a co-sharer, inspection was held within the ambit of the Pradhan Mantri Awas Yojana in respect of plot nos. 373 and 440 only. As such, learned counsel submits that subsequently the writ petitioner, upon discovering of the error in the application for sanction filed by the writ petitioner, has filed an application for rectification of such error in the form of a representation before the authorities. However, the said application is still pending.

It appears, upon hearing the learned Advocates for the parties, that the genesis of the review application is the application for rectification filed by the writ petitioner subsequent to the disposal of the W.P.A. 8333 of 2020 dated March 05, 2021. Since the application for rectification was filed prior to the filing of the review application, no *ex facie* mala fides in so filing can be attributed to the writ petitioner.

That apart, the writ petitioner specifically contends that the inspection and necessary formalities regarding grant of the Pradhan Mantri Awas Yojana sanction were undertaken in respect of plot nos. 373 and 440, which actually belong to the writ petitioner.

However, the order dated March 05, 2021 does not retain its validity in view of the admitted position

that the plots referred to in the order dated March 05, 2021 were not applied for in respect of the sanction by the writ petitioner at all. Thus, the said order ought to stand reviewed and recalled.

Accordingly, RVW 91 of 2021 is allowed, thereby recalling the order dated March 05, 2021 passed in W.P.A. 8333 of 2020.

However, in view of the pendency of the application for rectification of the writ petitioner's initial request for getting sanction under the Pradhan Mantri Awas Yojana and since the writ petitioner specifically contends that the relevant inspection, etc. were held in respect of plot nos. 373 and 440, as prayed by the petitioner in the writ petition, an opportunity ought to be given to the writ petitioner to substantiate such contentions.

However, only the concerned authorities will be able to bring the actual picture before the Court in that regard.

Hence, the writ petitioner is directed to serve copies of the writ petition, along with review application and the affidavit-in-opposition filed in connection therewith, although the latter has already been disposed of, on the concerned Block Development Officer (B.D.O.), the Block Land & Land Reforms Officer (BL & LRO) and the respondent no. 4 in the writ petition, that is, the Pradhan, Haldia I Gram

Panchayat, Khayranda, Ramnagar, District-Purba Medinipur.

The writ petitioner shall also communicate to the said authorities that the writ petition would be taken up for hearing on March 29, 2022, and file an affidavit of service at the next hearing.

Leave is granted to the writ petitioner to amend the cause title of the W.P.A. 8333 of 2020 by adding the concerned B.D.O. and BL & LRO as parties to the writ petition, during the course of the day.

As indicated above, W.P.A. 8333 of 2020 shall next be enlisted for hearing on March 29, 2022 before the appropriate Bench having determination to take up the matter, subject to the convenience of the said Bench.

The respondents and the added respondents shall file their respective affidavit(s)-in-opposition to the main writ petition within March 21, 2022. Reply/replies thereto, if any, shall be filed by the writ petitioner by March 29, 2022 when the matter is next taken up for hearing.

In view of the above order, C.A.N. 1 of 2021 and C.A.N. 2 of 2021 filed in connection with the review application, as well as the contempt application bearing C.P.A.N. 698 of 2021 stand disposed of.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)