

21.09.2022
Court No. 19
Item no.03
CP

W.P.A. No. 21134 of 2022

Abul Basar Molla

Vs.

The State of West Bengal & Ors.

Mr. Rafikul Islam Sardar

.....for the petitioner.

Mrs. Chama Mookherji

Mrs. Monika Pandit

....for the State.

Affidavit of service is taken on record.

Despite service, none appears on behalf of the respondent nos. 8 and 9.

The writ petition has been filed challenging an order of demolition passed by the Sub-Divisional Officer, Sadar, Howrah.

It appears that pursuant to a direction of the court in W.P. 13682 of 2019, such proceedings were initiated. A coordinate Bench of this court had directed that the respondents shall take immediate steps to remove the encroachment from the government land. For such purpose demarcation was directed to be made upon notice to the parties. If encroachment was found, notice of demolition was to be issued by the authority and steps were also

directed to be taken in this behalf. The allegation of the respondent no. 9 before that court was that some persons had raised the unauthorized structures on a vested land, which was delineated as a 'Nayanjuli'.

It appears that on the basis of the direction of this court, proceedings were initiated by the Sub-Divisional Magistrate, Howrah under Section 3 of the West Bengal Public Land (Eviction of Unauthorized Occupants) Act, 1962 against the persons whose constructions were allegedly unauthorized. It also appears that notice of demarcation was sent to the persons responsible for such construction. On the basis of the report, the authorities found unauthorized occupants on a public property. The report of joint inspection, the sketch map etc. were also looked into.

The report of the Block Land & Land Reforms Officer, Panchla indicated that four persons were occupying government land, namely, Asik Molla, Kadir Molla, Mostak Molla and Abul Basar Molla (petitioners). Show cause notices were issued to the said persons to answer all questions connected with the matter along with the liberty to adduce evidence in support of their claims to the property. The first order was passed by the Sub-Divisional Officer on July 12, 2022 when notices of the proceeding were directed to be issued. On the next date i.e. on July

21, 2022, the case was taken up, but none appeared. Final notice was directed to be issued and the next date of hearing was fixed. On August 18, 2022 the petitioner appeared before the authority and stated that he did not have any knowledge about the ownership of the plot and he had unknowingly constructed the structure on L.R. Plot No. 676 of Mouza – Jalakandua, J. L. No. 29, Police Station – Panchla. The petitioner and others could not produce any document with regard to their ownership and they admitted before the authority that the construction was made mistakenly.

It appears that a miscellaneous proceeding was also drawn up and it was found that eastern portion of L.R. Plot No. 676 of Mouza – Jalakandua was recorded in Khatian No. 1 which means that the land was recorded in the name of the government. The said land was encroached by construction of rectangular structures. The proceedings initiated by the Block Land & Land Reforms Officer, Panchla and the joint inspection report were also considered and after hearing all the parties, a direction was issued, asking the occupiers to remove the unauthorized constructions from the government land recorded as 'Nayaljuli'.

The Block Land & Land Reforms Officer, Panchla and the Inspector-in-charge, Panchla Police

Station were directed to ensure compliance of the order and ensure removal of the unauthorized construction. The order records clearly that the petitioner appeared before the authority. Notice under Section 3 of the West Bengal Public Land (Eviction of Unauthorized Occupants) Act, 1962 was served upon the parties. The parties were duly represented at the hearing and also allowed to furnish evidence in support of their claims with regard to the structures.

Under such circumstances, the court does not find any reason to interfere with the order passed by the Sub-Divisional Officer, Sandar Howrah, which is in compliance of a direction of this court. There are no grounds for judicial review.

Admittedly, this writ petition has not been filed with any documents to show that the findings were incorrect. The petitioner has not been able to show any title or interest in respect of the alleged land which were found to be on 'Nayanjuli'. None of the factual aspects which were found by the authorities have been denied. No supporting documents have been annexed which would indicate that the petitioner had any right, title and interest in respect of the land in question. Admissions made by the petitioner have also been recorded by the authority.

Proceedings were initiated as per law and concluded as per law.

Whether the petitioner has any other remedy under the law, is not decided by this court.

Accordingly, the writ petition is dismissed without any orders.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)