

07.11.2022
Sl. No.29(DL)
srm

W.P.A. No. 22420 of 2022
Shaikh Najibul Rahman
Vs.
The Union of India & Ors.

Mr. Suman Chakraborty
....for the Petitioner.

Ms. Sima Adhikari,
Ms. Kakali Naskar
...for the State-respondents.

Mr. Surajit Chakraborty
...for the Respondent No.3.

Affidavit-of-service is taken on record.

The respondent No.3 purchased 25 decimals of land belonging to the petitioner situated at LR Plot No1785 pertaining to Khatian Non.1400 of mouza Torgram, District-Hooghly. It is the contention of the petitioner that although the deed of sale mentions 25 decimals and the petitioner was paid the consideration money for 25 decimals, while raising the construction the respondent No.3 had utilized further 1.5 decimals of land.

The learned Advocate for the respondent No.3 denies such allegation and submits that when the measurement was done by the Block Land and Land Reforms Officer, Pandua, Hooghly in the presence of the

concerned Pradhan and in the presence of the parties, it was specifically found that only 25 decimals of the land of the petitioner was available for such construction by the respondent No.3 and the respondent No.3 on the basis of such report purchased 25 decimals. It is submitted that the report of the Block Land and Land Reforms Officer would indicate that that no land beyond 25 decimals was available for purchase and subsequent construction.

The State-respondents submits that the sale was a private arrangement between the petitioner and the respondent No.3. Thus, the Special Land Acquisition Officer, Hooghly did not have any responsibility in this regard to compensate the petitioner.

It is a fact that the State authorities are not required to initiate proceedings to compensate the petitioner. The respondent No.3, which is a public sector undertaking, had purchased the land from the petitioner. The only dispute that is existing now is whether any area beyond 25 decimals had been actually encroached upon or taken over in the process. The construction is going on and the petitioner alleges that during the course of construction, the respondent No.3 had extended the same beyond 25 decimals of land.

Be that as it may, these disputed questions of fact cannot be decided by the writ court. The petitioner is at liberty to approach the Block Land and Land Reforms Officer, Pandua for further measurement and demarcation. If such prayer is made, a joint inspection shall be made in presence of all the parties including the respondent Nos.3, 4 and 7. A report shall be prepared and supplied to the parties. The parties shall be entitled to respond to the report. Thereafter, a hearing shall be given to the parties and a decision shall be arrived at by the concerned Block Land and Land Reforms Officer. In case, it is found that the construction may have unknowingly gone beyond 25 decimals and had encroached any portion of the land over which the petitioner had exclusive right, title and interest, then remedial steps shall be taken by the respondent No.3.

The entire exercise shall be completed within a period of ten weeks by the Block Land and Land Reforms Officer from the date of receipt of the representation of the petitioner.

This Court has not gone into the merits of the allegations and the entire issue shall be decided by the concerned Block Land and Land Reforms Officer. A reasoned order to be passed upon completion of the hearing, which shall be communicated to all.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

A copy of the writ petition along with a server copy of this order be served upon the concerned Block Land and Land Reforms Officer for necessary compliance.

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

(Shampa Sarkar, J.)