

Item No. 5

16.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20837 of 2019

Rejabul Mondal
v.
The State of West Bengal & Ors.

Mr. Uday Narayan Betal
Mr. Mriganka Patra
... for the petitioner.

Mr. Debjit Mukherjee
Ms. Rupsha Chakraborty
... for the State.

Mr. Sarwar Jahan
Mr. Anisur Rahaman
Mr. Maidul Islam Kayal
... for the respondent nos. 11a to 11d
and 11f, 11g.

The Executive Officer of the Domkal Municipality, Murshidabad has passed an order on August 29, 2019 allegedly in connection with the writ petition being WP No. 6413 (W) of 2019 wherein it has been recorded that 11 decimals of the disputed plot being No.1679, is fully vested to the State. The writ petition has been filed in connection with the aforesaid vested land being Plot No. 1679.

According to the petitioner, the private respondents are raising illegal construction thereon.

The Executive Officer of the Municipality has admitted in the report that the private respondents have

constructed their dwelling house on the vested land covering the entire area of 11 decimals without having any proper documents from the competent authority.

The report further mentions that since the front position of the house of the petitioner has fully been blocked unauthorizedly, the ingress and egress of the petitioner has been closed. The Executive Officer opined that the matter may be referred to the BL & LRO, Domkal for taking necessary steps to restore the vested land in favour of the Government unless the land is settled in favour of the private respondents.

The Administrator of the Municipality has forwarded a report to this Court wherefrom it appears that the land in question has not yet been settled in favour of any of the parties.

The petitioner prays for removal of the unauthorized construction on the vested land.

The learned advocate representing the private respondents admits that they are residing there for a considerable period of time by raising construction thereon.

Reliance has been placed on the circular being No. 1469-GE(M)/IL-20/10 dated March 17, 2010 issued by the Land and Land Reforms Department relating to providing secure land tenure to the urban poor families belonging to economically weaker sections of the State.

The matter was examined and certain observations have been approved by the Cabinet.

Under the said circular there is a provision for providing long term settlement of the vested homestead land in favour of the urban poor families belonging to weaker sections of the society who have occupied the said land for not less than twenty years.

According to the private respondents they are occupying the said land for more than twenty years.

Learned advocate for the petitioner relies upon a Memo issued by the Director of Land Records & Surveys and Joint Land Reforms Commissioner, West Bengal being No. 55/3668-85/C/07 dated December 18, 2007 which mentions about removal of encroachment from the vested land.

It appears that the vested land has admittedly been occupied by the private respondents and construction has been made thereon without obtaining necessary sanction from the competent authority.

Whether the private respondents will be to hold on to the said land or not is to be decided by the competent authority in accordance with the relevant circular/guidelines/memo issued by the State.

It appears that on account of the construction of the dwelling house by the private respondent, the

ingress and egress to the petitioner's land has been blocked.

The District Magistrate, Murshidabad is directed to take steps for removal of the encroachment of the vested land strictly in accordance with law, at the earliest, but positively within a period of four months from the date of communication of a copy of this order.

The parties will be at liberty to approach the appropriate forum for redressal of their private disputes alleging infringement of private rights, if so advised.

The District Magistrate, Murshidabad shall take into consideration the circulars and the guidelines relied upon by the parties and an opportunity of hearing to be given to all the necessary parties prior to taking a decision in the matter.

The instruction given by the Administrator, Domkal Municipality be retained with the records.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)