

D/L
Item Nos.
12 & 13.
05.12.2022
KOLE

MAT 1674 of 2022
With
IA No. CAN 1 of 2022
With
IA No. CAN 2 of 2022

Sk. Nasar Ali @ Nasher Ali & Anr.
-Vs.-
Rabia Bibi & Ors.

with

MAT 1677 of 2022
With
IA No. CAN 1 of 2022

Sk. Nasar Ali @ Nasher Ali & Anr.
-Vs.-
Rabia Bibi & Ors.

Mr. Sourav Sen,
Mr. M. M. Roy,
Mr. P. Begam,

...for the appellants.

Mr. Jahar Lal De,
Mr. Smita Das Dey,

...for the State in MAT 1677 of 2022.

Mr. Suddhadeb Adak,
Mr. A. Mondal,

...for the Municipality.

Affidavit of service filed in court today be kept with
the records.

In Re: CAN 1 of 2022 in MAT 1674 of 2022

This is an application for condonation of delay of 103
days in filing the appeal. Causes shown being sufficient, the
delay is condoned.

CAN No. 1 of 2022 is accordingly disposed of.

**In Re: MAT 1674 of 2022 with CAN 2 of 2022 and
MAT 1677 of 2022 with CAN 1 of 2022**

By consent of the parties the appeals and the applications are taken up for hearing together.

MAT 1677 of 2022 is an appeal against an order dated August 2, 2018, whereby WP No. 1343 (W) of 2018 was disposed of. The present appellants were respondent nos. 8 and 9 in the writ petition.

MAT 1674 of 2022 is an appeal against an order dated June 17, 2022, whereby a learned Single Judge dismissed the application for recalling of the order dated August 2, 2018.

The writ petitioners who are respondents in this appeal, approached the learned Single Judge alleging that the present appellants and some of the respondents herein were making unauthorized construction on a plot of land which was, in fact, recorded as 'Doba'. The learned Judge disposed of the writ petition with the following observations:-

"In such circumstances, since plot no. 120 is recorded a doba, the appropriate authority will take measures under the provisions of the West Bengal Inland Fisheries Act, 1984, in accordance with law. Apparently, the Chairman of the municipality is the competent authority under the provisions of the Act of 1984 to restore a water body.

In such circumstances, the Chairman of the municipality will take expeditious measures for the purpose of restoration of the doba at Dag no. 120, Mouza-Arambagh, J.L. No. 34.

It is expected that, such exercise be completed within a period of four weeks from date of communication of this order to him."

The appellants say that plot number 120 is, in fact, 'Bastu' and it is wrongly recorded in the L.R. records as 'Doba'. Actually the land is Bastu as would appear from the R. S and C. S. records. One of the appellants says that he has made an application in November 2017 before the concerned Block Land and Land Reforms Officer (in short the 'BL & LRO') for correction of the record of rights by deleting the description of the said plot as 'Doba' and instead to describe the plot as 'Bastu'. Such application is still pending.

We are of the view that the concerned BL & LRO should first take a decision as regards whether or not there is merit in the claim of the appellants. Since the application was made more than five years ago, we grant liberty to the appellants to make a fresh comprehensive application for correction of the record of rights with supporting documents within a fortnight from date. If such application is made, the concerned BL & LRO shall decide the same by passing a reasoned order, in accordance with law, within a period of two months from the date of receipt of the application along with a copy of this order, after giving an opportunity of hearing to one of the appellants or their authorized representative and one of the writ petitioners or their authorized representative. In the event, the BL & LRO finds merit in the claim of the appellants, naturally he will take appropriate steps for correction of the record of rights. However, if it is found that the L.R. records are correct and the land is, in fact, 'Doba' then the order of the learned

Single Judge shall be operative and steps will be taken in terms thereof.

Let *status quo* in respect of the property in question continue till the concerned BL & LRO takes a decision in the application to be made by the appellants herein. If application is not made by the appellants or any one of them within the time period indicated above, these appeals will stand dismissed automatically without further reference to us.

The appeals and the connected applications are accordingly, disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)