

22.11.2022
Sl. No.7(DL)
srm

W.P.A. No. 23161 of 2022

Shila Prasad Khatik

Versus

The State of West Bengal & Ors.

Mr. Mohammad Mahmud,
Mr. M.S. Mollah,
Mr. Partha Samaddar

....for the Petitioner.

Ms. Sutapa Sanyal,
Ms. Susmita Saha

...for the State-respondents.

Ms. Majuli Chaudhuri,
Ms. Mekhla Sinha

...for the Howrah Zilla Parishad.

Mr. Amiya Kumar Chaudhuri,
Mr. Deba Prasad Roy,
Mr. Bikash Chandra Chowdhury

...for the Respondent No.9/Pradhan.

The petitioner contends that she had purchased a room measuring about 16'x20' from the President, Khatir Bazar Barrackpore Express Bus Owners' Association (hereinafter referred to as the Association). An agreement for sale on a non-judicial stamp paper of Rs.100/-, had been entered into.

It is submitted that the possession was handed over to the petitioner. Allegation is that the panchayat authorities have been disturbing the petitioner's use and occupation of

the room. It is further submitted that the room is in need of urgent repair. Pictures indicate that the room is in a dilapidated condition.

The next contention of the petitioner is that the panchayat authorities could not have prevented the petitioner from using the room as a shop once a trade licence had been granted in respect of the same. The trade licence, which has been granted to the petitioner is in respect of Dag No.2263.

The agreement relied upon by the petitioner, does not mention the schedule of the property. The description is absent.

The report of the Block Land and Land Reforms Officer, Domjur, Howrah indicates that Dag No.2263 had three shops and the proprietors were Ajit Kumar Koley and Jagabandu Koley. The name of the petitioner does not appear in the record of rights. The land records also do not indicate that the said plot had been in possession of the Bus Association.

The learned Advocate for the panchayat authorities submits that the trade licence did not indicate that the same had been granted in respect of the room which was being used as the office of the Association. He further submits that the land belongs to the PWD and the panchayat authorities

had adopted several resolutions and had decided to approach the PWD for permission to construct a health sub-centre on the land on which the room claimed by the petitioner is situated. It is submitted that the Bus Owners Association did not have any authority to put the petitioner in possession of the room.

The disputed questions of fact as to whether the room which the petitioner had taken possession of is situated on Dag No.2263 or on PWD land, cannot be decided by this court.

The petitioner has not been able to establish before this Court whether any deed of sale was ever executed between the Association and the petitioner.

Under such circumstances, the writ petition is disposed of with a direction upon the District Magistrate, Howrah, to make an enquiry with regard to the disputes which have arisen between the petitioner and the panchayat authorities.

The parties shall be heard. A reasoned order shall be passed and communicated. The assistance of the Block Land and Land Reforms Officer, Domjur shall also be taken by the District Magistrate to ascertain whether the land in which the room is situated is a government land or not. The land records shall be referred to. The submissions of all the parties

and their contentions shall be heard when the matter is decided by the authority.

If it is found that the plot on which the alleged room is situated belongs to the Government or to any department of the Government, the matter shall be taken up by the competent authority under the applicable law, for necessary steps. Whether directions to remove encroachment from the Government land or permission to any party, i.e. either the petitioner or the gram panchayat, shall be given to occupy and enjoy the same under certain terms and conditions, shall be decided by the competent authority of the concerned department.

In case it appears that the room is situated on a private land, the petitioner shall not be disturbed.

The entire exercise shall be completed within a period of four weeks from the date of communication of this order.

Till the decision is taken, both parties shall maintain status quo with regard to the room.

This Court has not gone into the merits of the claim and counter-claim of the parties.

The petitioner is directed to serve a copy of this writ petition along with a server copy of this order upon the District Magistrate, Howrah.

The report filed by the State-respondents is taken on record.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)