

S/L 6
19.12.2022
Court. No. 19
GB

W.P.A. 27051 of 2022

Tarak Chandra Srimani
VS
The State of West Bengal & Ors.

*Mr. Abhishek Halder,
Mr. Swadesh Misra,
Mr. Souvick Mitra,
Ms. Madhurima Basu.*

...for the Petitioner.

*Mr. Raja Saha,
Mr. S.P. Lahiri.*

...for the State.

Affidavit-of-service filed in Court today, be kept with the record. Despite service, none appears on behalf of the panchayat authorities.

The petitioner has come with a strange prayer before this Court. Essentially, a resolution of a meeting dated May 28, 2016 is being sought to be implemented.

According to the petitioner, the panchayat authorities being State under Article 12 of the Constitution of India must honour such resolution. Such resolution was adopted in the meeting of the Makardah No.1 gram panchayat, and it is prayed that the writ Court must direct enforcement of the same. A state authority is bound by its own resolution and a writ would lie for implementation of the same.

The petitioner submits that by virtue of the aforesaid resolution, the panchayat authorities who are in possession of 648 Sq. ft. of the land of the petitioner on Dag No.1869 of Mouza-Makardah were bound to hand over the said land to the petitioner for ingress and egress.

It is contended that the petitioner had donated approximately 1840 Sq. ft of land in the said dag to the panchayat authorities for their use and other developmental work.

The petitioner has annexed a copy of the deed of gift to show that the petitioner had complied with his obligation in terms of the resolution. The allegation is that the panchayat authorities had failed and neglected to comply with their part of obligation.

Mr. Lahiri, learned advocate appearing on behalf of the State respondents submits that the writ petition is not maintainable and the State is not a privy to the said resolution. The petitioner seeks implementation of an agreement which was beyond the jurisdiction of the writ Court.

Having heard the learned advocates for the respective parties, it appears from the records and the pleadings that the panchayat authorities had occupied a portion of the land of the petitioner, since long. As the petitioner required the said portion for his ingress and egress, he approached the panchayat authorities for a settlement. The members of the panchayat had a meeting and had adopted a resolution to the effect that the possession of 648 Sq. ft of the land would be handed over to the petitioner in exchange of 1840 Sq. ft of land to be gifted in favour of the panchayat authorities. Such deed of gift was executed on March 30, 2017 after the resolution was adopted.

Thus, it may be presumed that the petitioner had acted on the basis of the said resolution. This Court is of the view that an authority must act in accordance with law and cannot mislead or deceive innocent citizens. However, it is not possible for the writ Court to ascertain whether the submissions of the petitioner are factually correct. The documents placed before the Court indicate that there was some kind of agreement between the parties and a resolution was adopted. The petitioner acted on the basis of the same by altering his position.

Thus, this Court directs that the issue must be looked into and dealt with by a superior authority so that the truth may be ascertained and steps may be taken to see that the petitioner is not wrongly treated or deprived.

The petitioner will file a detailed representation before the Joint Secretary, Department of Panchayat and Rural Development, West Bengal within 10 days from date. If such representation is filed, the said authority shall dispose of the matter in accordance with law upon hearing the petitioner as also the Pradhan and other members of Makardah No.1 gram panchayat. A reasoned order shall be passed and communicated to all.

It is expected that the matter shall be honourably resolved by the authority. If it appears to the authority concerned that the petitioner was misled into executing the deed of gift and the panchayat authorities did not keep their part of the promise, remedial steps shall be taken. A citizen must neither be harassed nor cheated by the authorities.

However, if the contentions of the petitioner are found to incorrect, necessary order must be passed with reasons.

This order shall not be construed as a declaration of the claim of the petitioner. These factual issues have not been gone into and shall be decided by the authority, independently.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)