

Court No. 22
25.7.2022
(Item No. 10)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 27389 of 2015

Sannyasi Malik & Anr.
VS
The State of West Bengal & Ors.

Mr. Ejaz Hossain
..... for the petitioners
Mr. Subhendu Bandyopadhyay
.... For respondent Nos. 4 & 5

Mr. Ejaz Hossain, learned advocate appears for the writ petitioners.

Mr. Subhendu Bandyopadhyay, learned advocate appears for the respondent Nos. 4 and 5.

Since the parties are willing to proceed with the hearing in the matter, the same is being taken up.

Affidavit-in-reply brought to Court, is taken on record.

In this writ petition the grievance of the petitioners is that the private respondent Nos. 4 and 5 had wrongly and illegally constructed a building on the property, part and parcel of which belongs to the petitioners. The petitioners inherited this property from their predecessors. From **Annexure P-1** to the writ petition it appears that one Ramanath Malik was the predecessor-in-interest of the petitioners through whom the petitioners inherited the title in the property. The private respondents are also the successor-in-interest of Ramanath Malik since deceased.

The private respondents claimed that they inherited title from their same predecessor Ramanath Malik and had constructed their dwelling house on the land. In support of their title the writ petitioner relied upon a document at page 38 of the writ petition being part of **Annexure P-6** to the writ petition.

It is submitted on behalf of the writ petitioners that the office of the relevant B.L.& L.R.O. had also confirmed the title of the petitioners on the part and portion of the land, on which the respondent Nos. 4 and 5 had constructed their dwelling house. Drawing attention of this Court to **Annexure P-4** to the writ petition, it was submitted on behalf of the writ petitioners that, the relevant Gram Panchayat in presence of the interested parties mentioned therein amicably settled the disputes. The concerned land bears the Dag No. 277 which is a bastu land. By virtue of the said decision of the Gram Panchayat, the petitioners submit that, his valuable right on the property have been negated. Since after receiving the confirmation from the office of the concerned B.L.& L.R.O., pursuant to a direction dated July 18, 2013 made by the West Bengal Land Reforms and Tenancy Tribunal in **O.A. 2064 of 2012**, though the title of the petitioners were confirmed, according to the petitioner, on a portion of such disputed land, the relevant Gram Panchayat failed to take

any step in view of the recording mentioned in the document being **Annexure P-4** to the writ petition.

Affidavits were filed and exchanged in this writ petition, the same are on record.

An interim order was passed on November 5, 2015 when the writ petition was moved and the same is still in existence.

Mr. Subhendu Bandyopadhyay, learned counsel appearing for the respondent Nos. 4 and 5 submits that, from the averments made in the writ petition and the affidavits it is clear that the dispute raised before this Court is a purely private and civil disputes pertaining to a piece of land and this writ Court cannot decide the same. Accordingly, he prays for dismissal of the said writ petition. He submitted that to adjudicate upon the case of the writ petitioners, though there is no merit in the claim of the writ petitioners, several disputed question of facts and triable issues need to be considered and the same cannot be gone into by a writ Court.

The State is not represented.

After considering the arguments made on behalf of the appearing parties and after considering the relevant materials on record, it appears that the relevant Gram Panchayat had already visited the issue of the rival parties as would be evident from **Annexure P-4** to the writ petition.

From the **Annexure P-6** to the writ petition, it also appears to this Court that, the relevant land record shows the name of the petitioners as title holder on a portion of the subject land in dispute.

In view of the foregoing discussions and reasons, this Court is of the considered view that, such a title dispute involving niceties of facts and records cannot be gone into by this writ Court at this stage. However, justice may be sub-served, if the respondent No. 2 is directed to consider the case of the petitioners and shall pass a reasoned order on the issue after giving an opportunity of hearing to the petitioners and also the respondent Nos. 4 and 5 and then comes to its reasonable conclusion.

In view of the above, the respondent No. 2 is directed to consider the representations of the petitioners being **Annexures P-7 & P-9** to the writ petition in the light of the case made out by the writ petitioners in its writ petition along with all its annexures, upon giving a prior hearing notice of atleast seven days to the petitioners and the respondent Nos. 4 and 5 and then shall pass a reasoned order.

The entire exercise as directed above shall be carried out by the respondent No. 2 within a period of six weeks from the date of communication of this order and the reasoned order to be passed by him shall be communicated to the petitioners and the respondent Nos.

4 and 5 within a further period of two weeks from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the writ petition or the claim of the writ petitioners or the respondent Nos. 4 and 5 in any manner. The parties shall be at liberty to urge all points before the respondent No. 2.

Till two weeks after the said reasoned order to be communicated to the parties, as directed above, the interim order dated November 5, 2015 which is continuing and the respondents had not applied for vacating of the same nor preferred any appeal therefrom, shall continue.

With the above observations, the writ petition **WPA 27389 of 2015** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)