

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

BEFORE:

The Hon'ble Mr. Justice Ravi Krishan Kapur

W.P.A No.208 of 2019

Arun Kumar Daga & Anr.

Vs

State of West Bengal & Ors.

For the petitioners : Mr. Anirban Banerjee, Adv.

For the State : Mr. Hirak Barman, Adv.
Mr. Bikramaditya Ghosh, Adv.

Reserved on : 02.08.2022

Judgment on : 12.08.2022

Ravi Krishan Kapur, J.:

1. The grievance of the petitioner is directed against the refusal of the respondent authorities in considering the application of the petitioners for renewal of a long term lease settlement in respect of land measuring approximately 0.16 acres pertaining to plot no 1537 corresponding to C.S plot no 1019 and 0.12 acres in plot no 1538 corresponding to C.S plot no 1020 of Mouza – Alipurduar, J.L No 99, Police Station-

Alipurduar under R.S.Khatian No 861 and 862 respectively (“the premises”).

2. Briefly, the premises were leased out to the predecessor in interest of the petitioners on 1 April 1937 and 1 April 1936 respectively both for a period of 30 years w.e.f 01/04/1936 to 31/3/1967 and w.e.f. 1/04/1936 to 31/3/1966 by the Governor of State of West Bengal through the Collector, Jalpaiguri. Admittedly, neither of the lease agreements have been extended nor renewed upon the expiry of their respective terms. However, the petitioners have continued to be in possession of the premises even after the expiry of the lease term. By a notice dated 10 May 1991, issued by the Additional District Land & Land Reforms Officer and the Additional Collector, Jalpaiguri the respondents ultimately determined the respective leases granted in favour of the predecessor in interest of the petitioners.
3. Thereafter, pursuant to a resolution issued by the respondent authorities the petitioners applied on 30 December 2005 for a long term settlement lease in respect of the premises. The grievance of the petitioners is directed against non consideration of the renewal of the lease agreements.
4. On behalf of the respondent it is alleged that, the petitioners are in breach of the terms of the lease and had in fact executed an unauthorized deed of sale of the plot in favour of one Nathmall Jhalaria on 23 June 1953 without any prior permission or consent of the

respondents. The respondents further contend that upon breach of the lease agreement, and upon expiry of the lease tenure the petitioners cannot claim any right whatsoever in respect of the premises. It is further contended that, in terms of the lease agreement, if no further renewal is allowed, the demised land automatically reverted in favour of the Collector. By a notice dated 10 May 1991 the respondent authorities had demanded possession of the premises. On the aspect of demolition and dismantling, it is submitted that, in view of dilapidated condition of the premises a decision for dismantling was taken in public interest to avoid loss to the Government. It is also contended that the petitioners have suppressed an order passed by the West Bengal Land Reforms and Tenancy Tribunal on 16 August 2011 whereby the Learned Tribunal had rejected the claims of the petitioner in respect of any right over the premises.

5. I have considered the submissions of the parties.
6. Admittedly, the lease agreements in respect of the premises stood expired as far back as in 1966 and 1967 respectively by efflux of time. It is also an admitted position that no fresh lease has ever been granted in favour of the petitioners in respect of the premises. The petitioners also do not controvert the execution of a Deed of Sale dated 23 June, 1953 having been executed in favour of a third party without the consent of the respondent authorities. There is also no challenge to order dated 16

August 2011 passed by the West Bengal land Reforms and Tenancy Tribunal Act 1997 till date.

7. In my view, the petitioners have been unable to demonstrate a semblance of any legal right in respect of the premises. No public property can be dissipated as a matter of largesse, charity and donation for private exploitation. The stand of the petitioners is neither fair nor honest nor reasonable. Even on touchstone of public interest and in the interests of protecting public property there is no discretion which ought to be exercised in favour of the petitioners. Accordingly, in my view, there is no right which the petitioners can claim to have in respect of the subject premises.
8. The petitioners neither have any right to be in occupation of the plots nor are they entitled to have the lease agreement renewed. The foundation of the alleged right of the petitioner is prima facie unjust, unfair, and vexatious. There is also no equity in favour of the petitioners.
9. For the forgoing reasons, W.P.A No.208 of 2019 stands dismissed. There shall be no orders as to cost.
10. Urgent certified Photostat copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Ravi Krishan Kapur, J.)