

WPA 823 of 2023

Swapan Pal

Vs.

The State of West Bengal & Ors.

Mr. Mrinal Kanti Ghosh

Mr. Kapil Ch. Sahoo ...for the petitioner.

Mr. Chandi Charan De

...for the State.

Heard learned counsels for the parties.

It is contended on behalf of the petitioner that the plot in question has been acquired by the petitioner by virtue of purchase from the erstwhile owner vide deed of sale dated 5th September, 2011. The plot was vested under Section 44 (2)(a) of the West Bengal Estates Acquisition Act, 1953 following which a title suit was filed by the erstwhile owner which was contested by the State of West Bengal. The suit was decreed in favour of the erstwhile owner declaring her right, title and interest in respect of the property and a decree for permanent injunction was granted restraining the defendants from disturbing or interfering with the peaceful possession of the plaintiffs in respect of the said property.

In terms of such declaration, a co-ordinate Bench of this Court by an order passed on 9th June, 1999 in WP No.8706 (W) of 1999, directed the State authorities to consider and dispose of the application filed by the said owner for correction of Record of Rights within a

stipulated time frame. It was further observed that in the event the application was not disposed of within the said time, the Record of Rights would be deemed to have been corrected pursuant to the decree passed by the civil court.

In view of the said orders, the petitioner applied for correction of Record of Rights before the concerned authority which being turned down by the authority as well as in appeal, the petitioner approached the learned Land Reforms and Tenancy Tribunal before which the matter is pending.

The petitioner's grievance is that despite the orders of the civil court as well as the writ court, a tender has been floated by the 4th respondent in respect of the plot in question claiming the said plot to be vested.

The petitioner seeks to submit a comprehensive representation before the concerned authority stating the entire facts and prays for a direction upon the authority to consider the same at the earliest.

It is submitted on behalf of the State respondents that the 4th respondent be directed to consider the representation submitted by the petitioner, in accordance with law.

In view of the above, the writ petition is disposed of with liberty to the petitioner to submit a comprehensive representation stating the entire facts before the 4th respondent within one week from date. The 4th respondent

is directed to consider and dispose of the representation within a period of two months from the date of receipt thereof after granting reasonable opportunity of hearing to all the interested parties including the petitioner, in accordance with law.

In disposing of the said representation, the concerned authority should take into consideration the decree passed in the title suit as well as the order of the co-ordinate Bench of this Court.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

The notice inviting tender dated 3rd January, 2023 be stayed till seven days after disposal of the representation.

With the above observations and directions the writ petition being WPA 823 of 2023 is disposed of.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)