

19.04.2023

Item No.3

Ct. No.1

PG/KS

M.A.T. 149 of 2023
With
IA No. CAN 1 of 2023
+
IA No. CAN 2 of 2023

Punjab National Bank & Anr.
Vs.
Maa Muktakeshi Potato Freezing Private Ltd. &
Ors.

Mr. Abhishek Banerjee
Mrs. Parna Roy Chowdhury
.... For the Appellant/Bank

Mr. Debabrata Saha Roy
Mr. Neil Basu
Mr. Rahul Kumar Singh
.....For the Respondents/Writ Petitioners
Mr. Santanu Mitra
Ms. Rama Halder
.....For the State
Mr. Raghunath Adhikary
.....For the Respondent No.10

1. We have heard Mrs. Parna Roy Chowdhury, learned advocate for the appellants/bank, Mr. Debabrata Saha Roy, learned counsel for the respondents/writ petitioners and Mr. Santanu Mitra, learned Government counsel representing the State.
2. The application for leave to appeal (IA No. CAN 2 of 2023) is allowed as the appellants were not impleaded as parties to the writ petition and the appellants' rights have been affected.

3. This appeal by a third party to the writ petition viz. Punjab National Bank, for whom leave had been granted to file this appeal is aggrieved by the order dated 21st December, 2022 in W.P.A. No.26589 of 2022. According to the appellants/bank, the boundary wall should not be constructed, as ordered by the learned Single Bench as the appellants/bank are objecting to the demarcation of the property. It is seen that the writ petition, which was filed by the respondents herein was not first round of litigation, but, in fact, it appears to be the third round of litigation and in the earlier two rounds of litigation, the appellants/bank were parties before the Writ Court and in their presence directions have been issued to the Block Land & Land Reforms Officer, Joypur, Bankura to undertake the demarcation process.
4. After notice to all parties including the appellants/bank, the said authority has passed an order dated 29th August, 2022, a copy of which has been annexed to the affidavit in opposition filed on behalf of the respondent nos.1 and 2. In terms of the said order, the demarcation has been done and the said authority in his order records that at the time of hearing, all the parties submitted their deeds

and the process by which the map has been prepared has been explained before them elaborately.

5. The appellants/bank appears to have challenged the order passed by the Block Land & Land Reforms Officer dated 29th August, 2022 by filing a writ petition in an indirect manner by questioning their dispossession. However, this order having been passed in August, 2022, the said order has not been stayed or varied till date. As long as the said order remains intact as on date, the order and direction passed by the learned Single Bench for construction of the boundary wall at the demarcated line cannot be interfered with.
6. However, we make it clear that since the appellants/bank have already questioned the correctness of the order passed by the Block Land & Land Reforms Officer, it will be open to the appellants/bank to canvas all points in the said writ petition and seek for appropriate orders and directions therein. Therefore, at this juncture, we are not inclined to interfere with the order passed in the writ petition.
7. Accordingly, the appeal is dismissed alongwith IA No.CAN 1 of 2023 with the aforementioned observations.

8. It is made clear that the dismissal of this appeal will not in any manner affect the rights of the appellants/bank to canvas all grounds in the pending writ petition.
9. There shall be no order as to costs.
10. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)