

08.02.2023
Court No. 19
Item No.22
CP

WPA No. 2484 of 2023

Habibur Rahman
Vs.
The State of West Bengal & Ors.

Mr. Sounak Bhattacharya
Mr. S. Chakraborty
Mr. S. Mandal

....for the petitioner.

Mr. Saptangshu Basu, Sr. Advocate
Mr. Avishek Guha
Ms. A. Chopra

....for the respondent no. 14.

The petitioner alleges that the respondent no. 14 had raised a construction on L.R. & R.S. Dag No. 685 of Mouza – Sherpur, without any permission from the panchayat authorities. Further submission is made that the land was given to refugees from Bangladesh, by way of pattas. The said land was not transferable and, as such, the respondent no. 14 could not have any right, title and interest in respect thereof. Representations were filed before the authorities for necessary steps to be taken under the law, for removal of the aforementioned construction and the factory of the said respondent. As the authorities did not take any step, the writ petition has been filed.

Mr. Basu, learned senior advocate appearing on behalf of the respondent no. 14, hands over a

plan sanctioned by the Bhangar-I Gram Panchayat. According to him, the fact that the panchayat authorities had sanctioned the plan presupposes that such permission was granted in accordance with law. It is submitted that any action of an authority being State under Article 12 of the Constitution of India, undertaken in his official capacity, carries with it the presumption of correctness. Mr. Basu also submits that all the documents required from the statutory authorities for establishment and operation of the factory in question are in possession of the said respondent and all compliances had been satisfied.

Thus, the premise on which the writ petition has been framed is contrary to Mr. Basu's submissions, as the sanctioned plan has been produced in support of such construction.

The other contention which is being now raised by Mr. Bhattacharya, learned advocate for the petitioner is that the authority of the gram panchayat could not have granted the sanction as the land was classified as a 'danga' and not 'bastu'. Further prayer for cancellation of the said plan cannot be entertained in this writ petition. Such prayer of Mr. Bhattacharya is beyond the scope of the writ petition.

Hence, the writ petition is disposed of with the following liberties:

- a) The petitioner shall approach the concerned gram panchayat and raise a query as to whether the plan which has been submitted by Mr. Basu before this court was sanctioned by following Rules 26 and 31 of the West Bengal Panchayat (Gram Panchayat) Administration Rules, 2004.
- b) The petitioner shall pray for a copy of the plan. Secretary of the concerned gram panchayat will allow the petitioner to peruse the plan and take copies thereof from the panchayat office.
- c) The petitioner shall also have liberty to approach any other authority under the law, with regard to the allegation of construction without conversion.

If the petitioner approaches the authorities concerned, steps shall be taken in accordance with law.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)