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26.07.2023
Ct. No.10
b.das

WPA 2573 of 2023

Basudev Samanta & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Dilip Kr. Sinha ...for the petitioners.

Mr. Chandi Charan De
Mr. Anirban Sarkarfor the State.

Mr. Soumik Ganguly
Mr. Ritam Chowdhury
Mr. S. Nandy ...for Zilla Parishad.

Mr. Partha Pratim Roy
Mr. Sarbananda Sanyal
Ms. P. Chakraborty
...for the respondent Nos.7 –10.

Mr. Tapas Maity ...for the respondent No.11.

Report in the form of affidavit submitted on behalf
the Zilla Parishad is taken on record.

Heard learned counsels for the parties.

The petitioners complain that the private
respondents have raised unauthorised construction by
encroaching upon government land adjoining their
property. The petitioners pray for removal of such
encroachment.

Per contra, it is submitted on behalf of the Zilla
Parishad and is also the admitted position that the land
in question belongs to the Zilla Parishad.

Learned counsel for the Zilla Parishad submits that the Zilla Parishad intends to execute deeds of lease in favour of the private respondents in respect of the said land for which the private respondents have deposited the requisite fees. The deeds of lease are yet to be executed.

Learned counsel for the petitioners submits that the construction made by the private respondents has blocked their right of easement through the government land and also, requisite fees for grant of lease was paid during pendency of the writ petition.

Learned counsel has further submits that the said portion of the government land is used by the petitioners for their ingress and egress and shall be used for the intending customers of the business which the petitioners intend to start.

It is not in dispute that the land in question belongs to the Zilla Parishad who intends to execute deeds of lease in respect of the same in favour of the private respondents.

In view of such intention of the Zilla Parishad, it is immaterial as to when the requisite fees for execution of the deeds were deposited by the private respondents. The proposal of the Zilla Parishad and the private respondent cannot be brushed aside only on such ground. Since the Zilla Parishad, being the owner of the land in question, seeks to transfer the same in favour of the private respondents by virtue of deeds of lease, it cannot be said

that the private respondents have made illegal encroachment upon the government land. Even if for arguments sake it is held that the construction made by the private respondents were unauthorised, the Zilla Parishad has sought to regularise the same by issuance of lease in their favour.

In view of the above, this Court is inclined to hold that the writ petition is devoid of any merit and the petitioners have no locus standi to challenge the status of the private respondents in respect of the land belonging to the Zilla Parishad, more so, when the Zilla Parishad has decided to transfer the same in favour of the private respondents.

Accordingly, the writ petition being WPA 2573 of 2023 is dismissed.

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.)