

4&5 02.05.2023
tbsr Ct. 39

WPA 4179 of 2023
With
WPA 7328 of 2023

M/s Ayesa-1 Brick Field & Ors.

Vs.

State of West Bengal & Ors.

Mr. Nilanjan Bhattacharjee

Mr. Sayan De

Mr. Saustav Shome

Mr. Sayan Kanjilal

.....for the petitioners

Sk. Md. Galib

Ms. Jyotsna Roy Mukherjee

.....for the State in WPA 4179 of 2023

Mr. Chandi Charan De

Mr. Haripada Maity

Mr. Anirban Sarkar

.....for the State in WPA 7328 of 2023

Two connected matters being WPA No. 4179 of 2023 and WPA No. 7328 of 2023 are taken up for hearing together.

Learned counsel appearing on behalf of the petitioners in both the matters submits that the impugned order in the first application, i.e. the order dated 10.02.2023 was passed in a pursuance of an earlier order passed in a public interest litigation that no brick field shall be run on the vested land.

However, afterwards another public interest litigation was moved and it was directed that the concerned interested parties should be heard and thereafter an order would be passed. Accordingly, the petitioners were heard and the impugned order of the second writ was passed on 6th March, 2023. Thus, the

first writ application being WPA No. 4179 of 2023 has become infructuous.

Therefore, the writ petition being WPA No. 4179 of 2023 is disposed of as being infructuous.

In the second writ application, learned counsel of the petitioners in the second public interest litigation appears and submits as follows. It was pursuant to the public interest litigation filed by his clients that the impugned order of the second writ application was passed. In fact, the applicant's client was also heard along with the petitioners before the impugned order was passed. Therefore, his client is a necessary party in this writ petition.

It appears that the applicant was heard before passing the impugned order and it was pursuant to the his application in the public interest litigation that the order was passed. Therefore, he is a necessary party in this writ petition.

Accordingly, the petitioners are directed to add the party as respondent.

The cause title and the records be corrected accordingly.

Copy of the amended cause title may also be served on the learned counsel of the added respondent.

Learned counsel for the petitioners further submits as follows. The land in question is not vested.

The same was also converted. Necessary 'no objection' was obtained and revenue paid. The brick field was not even within 100 meter from the river.

Learned counsel for the added respondent submits as follows. From documents relied upon by the petitioners, it is apparent that the land was not converted. Necessary permissions were not obtained. The brick field was within 100 meter of the river. Reliance is placed on order dated 14.06.2022 in WPA (P)/32/2021.

Heard the learned counsels for the parties.

Let the respondents file an opposition one week after summer vacation. Reply, if any, be filed within a week thereafter.

List this matter for hearing on 19th June, 2023.

In view of the order passed in the two above referred public interest litigations and the order dated 14.06.2022 passed by the Hon'ble Division Bench of this Court in WPA(P)/32/2021, the prayer for interim order is refused.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance.

(Jay Sengupta, J.)