

18.04.2023
Court No. 19
Item no.03
CP

WPA No. 5581 of 2023

Krishna Saha & Ors.
Vs
The State of West Bengal & Ors.

Md. Younush Mondal
... for the Petitioners.
Ms. Sipra Majumdar,
Ms. Prativa Ghatak
... for the State.
Mr. Sarbananda Sanyal
Mr. Triptimoy Talukder
....for the respondent nos. 7 to 9.

Cosmos Club has been served. None appears on behalf of the club.

The writ petition is disposed of with a direction upon the District Magistrate, Nadia to consider the petitioner's representation, which is annexure P-7 at page 23 of the writ petition in accordance with law and pass necessary orders upon hearing the petitioners, respondent nos. 7 to 9 and any other interested party.

Although it is the petitioners' case that L.R. Plot No. 1647 of Mouza – Jagadanandapur belongs to the petitioners, the reports filed by the State respondents indicate that the land had vested to the State Government.

Learned advocate for the petitioners submit that steps have been taken for correction of the record of rights upon setting aside the order of vesting before the

appropriate forum. It further appears that a concrete construction exists on the said plot, from which a club holds the annual Durga Puja and other religious festivals.

Learned advocate for the respondent nos. 7 to 9 submits that the order of vesting still subsists and has not been set aside by any competent court of law. Thus, the contention of the petitioners with regard to the ownership in respect of the land in question is unfounded. He further submits that there is a temple on the said land and no new construction had been made.

Although the question of right, title and interest of the petitioners in respect of the said plot cannot be decided by this court, assuming that the statements of the respondent nos. 7 to 9 are correct, the court deems it fit to direct the District Magistrate Nadia, to ascertain whether the construction on the said plot had been made in accordance with the provisions of law, i.e., whether the permission had been taken from the government before such construction was made on the alleged vested land. If the District Magistrate finds that there has been encroachment on government land, necessary steps shall be taken in accordance with law, upon hearing all parties in terms of the West Bengal Public Land (Eviction of Unauthorized Occupants) Act, 1962.

If the District Magistrate is of the opinion that the construction have been made without any permission in terms of Section 23 of the West Bengal Panchayat Act, 1973, and the matter must be referred to the Bethuadahari-II Gram Panchayat for necessary steps in terms of Section 23(5) of the West Bengal Panchayat Act, 1973, the same shall be done.

The District Magistrate will record all findings by passing a reasoned order which shall be served upon the parties. Such exercise shall be concluded within a period of two months from the date of communication of this order.

If the District Magistrate refers the matter to the panchayat authorities, the panchayat authorities shall act and proceed in accordance with law and take consequential steps within six weeks from such reference.

All steps shall precede an inspection of the site, in the presence of all the parties including the club and other interested parties and an opportunity of being heard shall be granted to all.

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.)