

14.03.2023
Sl. No.24(DL)
srm

W.P.A. No. 5611 of 2023

Goutam Nansi

Versus

The State of West Bengal & Ors.

Mr. K.D. Poddar,
Mr. M.K. Biswas

....for the Petitioner.

Mr. GAzi Faruque Hossain,
Mr. Shuvadeep Paul

...for the Respondent Nos.8 to 10.

Affidavit-of-service is taken on record.

The petitioner alleges that the respondent Nos.8 to 10 had raised a construction on Dag No.179 of mouza Dighagari. The petitioner claims ownership with regard to the land in question.

It appears that a suit was filed by the petitioner in the court of the learned Civil Judge (Junior Division), Additional Court, Hooghly. The respondent Nos.8 to 10 contested the civil suit and filed an application for rejection of the plaint. The plaint was rejected on the ground of being barred by law under Order VII Rule 11(d) of the Code of Civil Procedure. It appears from the order passed by the learned civil judge that the respondent Nos.8 to 10 had been granted *patta* in respect of the said land which

vested with the State of West Bengal under the West Bengal Acquisition of Homestead Land for Agricultural Labourers and Fishermen Act, 1975.

Thus, the question of ownership and title of the petitioner cannot be gone into either by this Court or by the panchayat authorities. The same is *sub judice* before the appropriate forum.

The learned Advocate for the respondent Nos.8 to 10 has handed over some documents. It appears that permission had been granted to the said respondents for construction on Dag No.179, J.L. No.15 of mouza Dighagari, pursuant to an application dated February 11, 2022. Thus, it *prima facie* appears that there is a permission from authority. The petitioner may approach the authority for a copy of the sanctioned plan, which shall be supplied to the petitioner in accordance with law at the petitioner's own cost.

Under such circumstances, the panchayat authorities are directed to only ensure that the construction of the respondent Nos.8 to 10 is strictly in accordance with the permission/plan which had been sanctioned. An inspection shall be made in the presence of the parties. A hearing shall be given and a reasoned order shall be passed and communicated to all. In case of any deviation

from the permission/plan, steps shall be taken in accordance with law.

The entire exercise shall be completed within a period of three months from the date of communication of this order.

The issue of title, encroachment, possession, etc. shall not be decided. The petitioner is at liberty to approach the appropriate forum for necessary preventive orders.

The respondent Nos.8 to 10 shall construct in accordance with law and in accordance with the plan, unless enjoined by any other forum.

A copy of the writ petition along with a server copy of this order be served upon the Secretary, Sarthithan Gram Panchayat, Hooghly.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)