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21.04.2023
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W.P.A. 6076 of 2023

(Sujit Mandal & Ors. vs. State of West Bengal & Ors.)

Mr. Mrinal Kanti Ghosh
Mr. Chandra Nath Sarkar
.... For the Petitioners
Mr. Chandi Charan De
Mr. Anirban Sarkar
.... For the State

Affidavit of service filed on behalf of the petitioners is taken on record.

On prayer of the petitioners the name of the 6th respondent being M/s Bengal Trading Company be expunged from the cause title of the petition. The cause title of the petition be amended accordingly.

The petitioners are aggrieved by the order passed by the Assistant Engineer, Canning Highway Sub-Division, Public Works (Roads) Directorate on 27th January, 2023.

The petitioners claim to be recorded owners of the plots in question and complain that the State respondents have demolished a portion of their residential and commercial units standing thereon for extension of Basanti Highway without taking recourse to due process of law. Pursuant to an order of this Court passed on 14th December, 2022 in W.P.A. 26519 of 2022 the concerned authority dealt with the representation submitted by the petitioners in this regard and turned down the prayer of the petitioners by the order impugned.

The relevant portion of the order impugned is required to be set out.

“Prima facie, it is also observed the dispute arising out of the land was acquired by the Competent Authority of the Government way back. However the petitioners’ prayer for accessing the documents related to such land acquisition is hereby allowed and the BL & LRO, Basanti is directed to share the comprehensive details of the land acquisition related to disputed plots done in the year of 1968 with the petitioners within next 7(seven) days from the date of communication of this order. The BL & LRO, Basanti is also directed to take suitable steps to make necessary arrangements to change the record of the acquired land in the name of the govt. if not done already to avoid any future disputes of this nature. The private respondent, Bengal trading Company is hereby directed to carry on the construction activities to complete the balance work with in the land as demarcated as the govt. land by the BL & LRO, Basanti. Simultaneously, The petitioners are directed to remove their structures standing on the acquired govt. land immediately if not done earlier so that the widening of the highway within the govt. land may be executed in a hindrance free manner.”

It is strange to note that the concerned authority has on one hand directed the Block Land and Land Reforms Officer to share the comprehensive details of the land acquisition related to disputed plots with the petitioners and on the other hand directed the Block Land and Land Reforms Officer to make necessary arrangements for changing the record of rights in the name of the Government and the Bengal Trading Company to carry on construction activities in the land. Such contradictory view in a single order is unknown to law.

In view of the above, this Court is inclined to hold that the order impugned is required to be set aside and the matter be remanded back to the concerned authority being the 3rd respondent herein for revisiting the issue upon affording reasonable opportunity of hearing to all the stake holders including the petitioners, in accordance with law. Hearing should be taken to its logical conclusion within two months from the date of communication of this order.

The writ petition is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)