

06-12-2023
Item No.48
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.4503 of 2014
Sri Swapan Saha & Anr.
-vs-
The State of West Bengal & Ors.

Mr. Shyamal Kr. Mukherjee ...for the petitioners

Affidavit of service is taken on record. None appears for the respondents.

The petitioners by way of this petition under Article 226 of the Constitution of India seek for a direction upon the State-respondents to issue a fresh indenture in respect of Plot no.2/35, Vidyasagar Colony, P.S. Patuli, district South 24 Parganas, Kolkata- 700 047 measuring more or less 5 cottahs.

The case of the petitioners is, one Braja Gopal Saha came to India from East Pakistan (now Bangladesh) after partition and he along with his family members started residing on a land being C.S. Plot No. 929(P) of Mouza Roypur, JL No.33 P.S. Jadavpur, district South 24 Parganas. The said Braja Gopal Saha died intestate in the year 1991 leaving behind his six sons, two daughters and his wife. Subsequently, in the year 2002, the widow of Braja Gopal Saha expired. On April 19, 2002, the Government executed the indenture in favour of three sons, namely, Sankar Saha, Subhash Chandra Saha and Ajay Saha only. However, the indenture was never executed in favour of other legal heirs of said deceased Braja Gopal Saha.

The writ petition was dismissed for default by this

court on July 3, 2015. Upon restoration of it on October 16, 2015, the petitioners no.2 and 3 are pursuing the writ petition. Since the name of other legal heirs was not incorporated in the indenture, the petitioners have filed the instant writ petition.

Mr Mukhodhayay, learned counsel appearing for the petitioners, submits that the State-respondents without any plausible reason did not execute the indenture in favour of rest of the legal heirs of Braja Gopal Saha and had executed the same in favour of only three sons, namely Sankar Saha, Subhas Chandra Saha and Ajay Saha. He seeks for a specific direction for considering the petitioners' representation made through their learned advocate dated 19th December 2013 or for liberty to file fresh representation.

State-respondents are unrepresented.

Upon hearing the learned advocate for the petitioners, the instant writ petition is disposed of granting liberty to the petitioners to file fresh representation before the respondent no.3 – Deputy Director, Refuge Relief and Rehabilitation Department, Government of West Bengal – within a period of fifteen days from date. Upon submission of such representation, respondent no.3 – Deputy Director, Refuge Relief and Rehabilitation Department, Government of West Bengal – shall consider and dispose of the petitioners' representation made afresh as above, within a period of three months from the date of submission of such representation, after giving opportunity of hearing to the petitioners and other concerned parties.

The decision taken by respondent no.3 shall be communicated to the petitioners within a week thereafter.

Since no affidavit-in-opposition is filed, the allegations made in the writ petition are deemed to be not admitted.

With the aforesaid observation, **WPA No.4503 of 2014** is thus disposed of.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

All concerned parties shall act in terms of the copy of this order duly downloaded from the official website of this court.

Urgent certified copy of this order, if applied for, be given to the parties upon compliance of necessary legal formalities.

[Bivas Pattanayak, J]

