

04.04.2023
Court No. 19
Item no.34
CP

WPA No. 7385 of 2023

Uday Das
Vs.
The South 24 Parganas Zilla Parishad & Ors.

Mr. K. P. Mukhopadhyay

....for the petitioner.

Mr. Tapash Kr. Mondal

.....for respondent nos. 1 & 2.

Affidavit of service is taken on record.

The petitioner alleges that although a total sum of Rs.2,70,000/- was deposited with the South 24 Parganas Zilla Parishad, the physical possession of the Muri Ganga to Kakdwip Ferry Ghat had not been handed over to the petitioner. On the contrary, the ferry ghat has been illegally and wrongfully occupied by third parties.

The petitioner submits that the amount of Rs.2,70,000/- should be refunded to the petitioner as the authorities could not grant peaceful and vacant possession of Muri Ganga to Kakdwip Ferry Ghat. It is submitted that the money was deposited in the office of the zilla parishad in two phases, i.e., on September 5, 2022 and on October 19, 2022. Such amount covered the lease rent for six months i.e. from September 1, 2022 to March 31, 2023.

The lease was granted in favour of the petitioner on the basis of an auction. The prayer of the petitioner is that as the petitioner could not run the ferry ghat on account of failure of the authority to hand over physical and peaceful possession of the same, the money should be refunded.

The disputed questions of fact cannot be gone into by the writ court. The petitioner is at liberty to approach the competent authority, namely, the Additional Executive Officer, South 24 Parganas Zilla Parishad with his prayer for refund of the amount deposited.

Before the authority decides the matter, an inspection shall be made in order to ascertain the actual state of affairs. Whether the petitioner failed to operate the ferry ghat due to laches on his part or was actually prevented because third parties were in possession of the ferry ghat and the authority could not deliver vacant possession to the petitioner, shall be decided.

If the contention of the petitioner is found to be correct, then the amount deposited by the petitioner should be refunded.

Needless to mention, after the inspection, a hearing shall be given to the petitioner and to all other interested parties. A reasoned order shall be passed and communicated.

The entire exercise shall be completed within a period of two months from the date of receipt of the complaint.

Accordingly, 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.)