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jdt.

24.07.2023
jb.

W.P.A. 8354 of 2023
(CAN 1 of 2023)
(Lalu Ghosh @ Lalu Nath Ghosh & Ors. vs. State of West Bengal & Ors.)

Mr. Soumava Mukherjee
Mr. Subhankar Chatterjee
.... For the Petitioners

Mr. Chandi Charan De
Mr. Susovan Sengupta
Mr. Anirban Sarkar
.... For the State

Heard learned counsels for the parties.

An order under Section 4 of the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962 was passed against the petitioners on 10th November, 2022 declaring the petitioners to be unauthorised occupants of the plot in question and directing enforcement of eviction of the petitioners from the said plot within a stipulated time frame. The petitioners carried this order in appeal under Section 7 of the Act of 1962 and the appeal was heard upon affording reasonable opportunity of hearing to the petitioners on December 22, 2022. The decision taken by the appellate authority has not been communicated to the petitioners till date. In the meantime, an order of execution was passed by the Sub-Divisional Magistrate, Barasat (Sadar), North 24 Parganas on 27th March, 2023 which records that the appeals filed by the petitioners and others being Appeal case No. 3 of 2022 were dismissed on merit on 28th November, 2022.

No explanation has been given on behalf of the State respondents as to how the appeals were disposed of on 28th November, 2022 as recorded in the order passed on 27th March, 2023 despite the fact that the appeals were heard in presence of the petitioners on December 22, 2022.

On this ground alone, this Court is inclined to hold that since the order passed on 27th March, 2023 is on the anvil of a wrong recording of the disposal of the appeals, the order is required to be set aside.

Accordingly, the order passed on 27th March, 2023 by the Sub-Divisional Magistrate, Barasat (Sadar), North 24 Parganas is set aside.

The appellate authority, being the 3rd respondent herein, is directed to intimate the result of the appeals to the petitioners within two weeks from date in the event the appeal has been disposed of and in case the appeal is still pending, give reasonable opportunity of hearing to the petitioners and dispose of the appeal within two weeks from the date of communication of this order, in accordance with law.

Pending disposal of the appeal or till the communication of the order of appeal to the petitioners, no coercive steps be taken against the petitioners in respect of the plot in question.

The writ petition is thus disposed of.

Consequently, CAN 1 of 2023 stands 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.)