

Item No.6
27.04.2023
Court. No. 19
GB

WPA 8427 of 2023

Sikha Rani Ghosh
Vs
The Pradhan, Kultiri Gram Panchayat & Ors.

Mr. Shyamal Kumar Bhattacharjee

...for the Petitioner.

*Mr. Jahar Lal De,
Mr. Supratim Dhar*

...for the State.

Affidavit-of-service filed in Court today, be kept with the record.

Despite service, none appears on behalf of the respondents, apart from the State respondents.

The petitioner claims to be the owner of an undivided plot of land being plot no.4/40 corresponding to L.R. Khatian No.26/11 of Mouza-Jangalkurchi. The petitioner allegedly purchased 6 decimals out of total 7.94 acres. It is stated that the said land purchased by the petitioner had been recorded in the name of one Prabhat Kumar Singha in the R.S. record of rights. Thereafter, the petitioner got his name mutated in the L.R. records and it is contended that the name of the petitioner has been duly entered in the L.R. record of rights in respect of the alleged 6 decimals of land.

The petitioner applied before the concerned gram panchayat for sanction of a building plan. When the petitioner started the construction work, adjacent plot owners and other persons in the locality asked the petitioner to stop such construction on the ground that the construction

was encroaching a portion of the land which had vested in the State of West Bengal and also some of the lands belonging to other persons. The petitioner submits that a building plan was sanctioned by the gram panchayat on the basis of the boundaries, as per his title deed.

The petitioner apprehends that either there may be some defects or discrepancies in his deed or the contentions of those persons who objected to the petitioner's construction were incorrect. In order to dispel all confusions, the petitioner approached the authorities, seeking demarcation.

Mr. De, learned advocate for the State respondents submits that when the petitioner himself is not sure of the boundaries of the area purchased by him and there are chances of a boundary dispute, the State authorities cannot resolve such issue and the proper remedy of the petitioner would be before the civil court.

The Court agrees with Mr. De's contention to the extent that dispute with regard to title and boundary must be decided by a civil court and cannot be resolved by mere measurements and demarcation.

However, this Court finds that the issue as to whether the petitioner's construction, as permitted by the gram panchayat, would actually encroach on a portion of any vested land or not, can always be ascertained by an inspection and demarcation.

Under such circumstances, the writ petition is disposed of with a direction upon the Block Land and Land

Reforms Officer, Sankrail to cause an inspection, measure the area and demarcate the petitioner's area and the portion alleged to have been vested in the State of West Bengal in respect of the total undivided plot no.4/40, out of which 6 decimals were allegedly purchased by the petitioner. The demarcation shall be made on the basis of the petitioner's documents, the mouza map and the land records.

The Court has not gone into the merits of the claim of the petitioner. The records and the pleadings do not sufficiently indicate the issue of vesting etc. Apart from the L.R. record of rights which have been annexed to the writ petition, no further details are available.

The entire exercise shall be completed within a period of eight weeks from date of communication of this order.

The petitioner, the Pradhan of the concerned gram panchayat, the Block Development Officer and other interested parties and respondents herein, shall be present at the time of demarcation and measurement. A report shall be prepared and handed over to the parties upon completion of the measurement. A rough sketch map not drawn to scale, shall be supplied to the parties. Thereafter, the petitioner will be at liberty to approach the appropriate forum in accordance with law.

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.)